

**DAIRY INDUSTRY MARKETING AUTHORITY
ACT, 1979, No. 208**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 208, 1979.

An Act to constitute the Dairy Industry Marketing Authority and to define its powers, authorities, duties and functions; to provide for the regulation of the supply and treatment of milk and of the production of milk, dairy products and margarine; to enable the fixing of prices for milk and certain dairy

See also Stamp Duties (Dairy Industry Marketing Authority) Amendment Act, 1979; Statutory and Other Offices Remuneration (Dairy Industry Marketing Authority) Amendment Act, 1979.

Dairy Industry Marketing Authority.

products; to repeal the Dairy Industry Act, 1915, and the Dairy Industry Authority Act, 1970, and to repeal or amend certain other enactments; and for other purposes. [Assented to, 24th December, 1979.]

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 :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Dairy Industry Marketing Authority Act, 1979".

Commence-
ment. **2.** (1) This section, section 1, the provisions of this Act relating to the appointment of members of the Dairy Industry Marketing Authority to be constituted under this Act and the election of persons to the panels to be constituted in connection therewith, section 108, in its application to clause 14 of Schedule 5, and that clause shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrange-
ment. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—THE DAIRY INDUSTRY MARKETING AUTHORITY—
ss. 7–20.

DIVISION 1.—*Constitution of the Authority*—s. 7.

DIVISION 2.—*Responsibilities and Powers, etc., of the Authority*—ss. 8–15.

DIVISION 3.—*Administrative Matters*—ss. 16–20.

Dairy Industry Marketing Authority.

PART III.—REGULATION OF THE MILK SUPPLY—ss. 21–31.

DIVISION 1.—*Vesting of Milk in the Authority—ss. 21–24.*

DIVISION 2.—*Delivery of Milk to the Authority—ss. 25–27.*

DIVISION 3.—*Payment for Vested Milk—ss. 28–31.*

**PART IV.—REGULATION OF THE PRODUCTION OF MILK,
DAIRY PRODUCTS AND MARGARINE—ss. 32–52.**

DIVISION 1.—*Regulation of Dairymen and Dairy Produce
Merchants—ss. 32–35.*

DIVISION 2.—*Regulation of Dairy Premises—ss. 36–40.*

DIVISION 3.—*Regulation of Quality of Milk and Dairy
Products—ss. 41–44.*

DIVISION 4.—*Grading of Milk, Cream and Dairy Products
—ss. 45–52.*

**PART V.—FIXING OF CERTAIN DAIRY INDUSTRY PRICES—
ss. 53–60.**

DIVISION 1.—*The Dairy Industry Pricing Committee—ss.
53, 54.*

DIVISION 2.—*Prices of Milk and Declared Dairy Products
—ss. 55, 56.*

DIVISION 3.—*Miscellaneous—ss. 57–60.*

**PART VI.—ACQUISITION OF PROPERTY BY THE AUTHORITY
—ss. 61–69.**

DIVISION 1.—*Acquisition of Land—ss. 61, 62.*

DIVISION 2.—*Acquisition of Undertakings—ss. 63–69.*

PART VII.—FINANCE—ss. 70–80.

DIVISION 1.—*Accounts and Audits—ss. 70, 71.*

DIVISION 2.—*Investment and Borrowing—ss. 72–80.*

Dairy Industry Marketing Authority.

PART VIII.—SUPPLEMENTARY—ss. 81–108.

DIVISION 1.—*Additional Powers of Authorised Officers—*
ss. 81–84.

DIVISION 2.—*Investigation of Complaints by Dairymen—*
ss. 85–91.

DIVISION 3.—*Proceedings for Offences—*ss. 92–96.

DIVISION 4.—*Miscellaneous—*ss. 97–108.

SCHEDULE 1.—DEFINITION OF MILK.

SCHEDULE 2.—CONSTITUTION AND PROCEDURE OF THE
AUTHORITY.

SCHEDULE 3.—CONSTITUTION AND PROCEDURE OF PRICING
COMMITTEE.

SCHEDULE 4.—REPEALS AND AMENDMENT OF ACTS.

SCHEDULE 5.—SAVINGS AND TRANSITIONAL PROVISIONS.

Interpre-
tation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Authority” means the Dairy Industry Marketing Authority constituted under section 7 (1);

“carrier” means any person (other than a dairyman or dairy produce merchant who carries milk as a dairyman or as part of his business as a dairy produce merchant) who carries on business as a carrier of milk;

“certificate of registration” means a certificate of registration issued under section 32 (5);

“Chairman” means Chairman of the Authority;

“conveyance” includes vessel and aircraft;

“cream” is that portion of milk in which, either through rest or mechanical separation, the greater part of the milk fat content of the milk has become concentrated;

Dairy Industry Marketing Authority.

“dairy premises” means any land or premises used for or in connection with the stalling, grazing, feeding or milking of cattle for the purpose of producing milk which is supplied or to be supplied for profit or sale;

“dairy produce factory” means any building or place at or in which any dairy product or margarine is produced or at or in which any dairy product or margarine is processed after its production;

“dairy produce merchant” means any person—

- (a) who is the occupier of a milk store, dairy produce factory or dairy produce store;
- (b) who, otherwise than as an employee or a carrier, receives or accepts milk to be supplied to another person; or
- (c) who sells milk to another person;

“dairy produce store” means any building or place at or in which any dairy product or margarine is stored, whether in a cold chamber or otherwise, but does not include premises used for the sale by retail of any dairy product or margarine;

“dairy product” means any food, not being milk, in the production of which—

- (a) milk is used; or
- (b) any substance produced from milk is used;

“dairyman” means the occupier of dairy premises;

“Deputy Chairman” means Deputy Chairman of the Authority;

“food” has the meaning ascribed thereto in section 4 (1) of the Pure Food Act, 1908;

“full-time member” means a member appointed by the Governor pursuant to section 7 (2);

“grade”, in relation to milk, cream or a dairy product, means the prescribed grade to which the milk, cream or dairy product, as the case may be, belongs;

Dairy Industry Marketing Authority.

“margarine” means any food that—

- (a) is a solid or semi-solid emulsion containing a mixture of water and an edible fat, water and an edible oil or water and an edible fat and an edible oil;
- (b) is made in imitation or semblance of butter; and
- (c) has a fat content none of which is derived from milk;

“member” means member of the Authority;

“milk” includes—

- (a) any liquid; and
- (b) any liquid of a class,

for the time being described in Schedule 1;

“milk fat” means the pure fat of milk;

“milk store” means any building or place at or in which milk is treated or stored, and includes any building and place at or from which milk is supplied, but does not include dairy premises;

“officer of the Authority” means any person employed pursuant to section 16 who is not an officer or temporary employee of the Department;

“package” includes anything in or by which a substance or an article is cased, covered, enclosed, contained or packed;

“part-time member” means a member appointed by the Minister pursuant to section 7 (2);

“Prices Commission” means the Prices Commission constituted under the Prices Regulation Act, 1948;

“Pricing Committee” means the Dairy Industry Pricing Committee constituted under section 53;

“produce”, in relation to a dairy product or margarine, includes manufacture the dairy product or margarine;

“registered”, in relation to—

- (a) a dairyman, means holding a certificate of registration as a dairyman; or

Dairy Industry Marketing Authority.

(b) a dairy produce merchant, means holding a certificate of registration as a dairy produce merchant;

“regulations” means regulations made under this Act;

“secretary” means secretary of the Authority or the person for the time being acting as the secretary of the Authority;

“sell” means sell by wholesale or by retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale;

“stored” includes deposited;

“the Department” means the Department of Agriculture;

“treatment”, in relation to milk, includes the examination, cleansing, pasteurisation, processing by means of an ultra heat treatment method, modification, homogenisation, separation, sterilisation, alteration or manufacture into another form of milk or into a dairy product, packaging, testing, analysing, grading, cooling, refrigerating, bottling and packing of the milk.

(2) A reference in this Act to the commencement of this Act is a reference to the day appointed and notified under section 2 (2).

(3) For the purposes of this Act—

(a) a reference to milk supplied for human consumption, as milk, or for use by humans, as milk, includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for human consumption, as milk, or for use by humans, as milk; and

Dairy Industry Marketing Authority.

- (b) a reference to milk supplied for use in the production of dairy products includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for use in the production of dairy products.

Amendment
of Schedule
1.
cf. Act No.
29, 1970,
s. 5.

5. (1) The Governor may from time to time, by proclamation published in the Gazette, amend Schedule 1 by adding thereto or excluding therefrom the description of any liquid, or any class of liquids, specified in the proclamation.

(2) Any proclamation made under this section may be amended or revoked by a subsequent proclamation.

(3) A proclamation made under this section shall—

- (a) take effect on and from the date of publication of the proclamation or a later date specified in the proclamation; and
- (b) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(4) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a proclamation under this section has been laid before it, disallowing the proclamation or any part thereof, the proclamation or part thereupon ceases to have effect.

(5) For the purposes of subsections (3) and (4), sitting days shall be counted, whether or not they occur during the same session.

Saving of
certain
Acts, etc.
cf. Act No.
29, 1970,
s. 6.

6. Unless otherwise in this Act expressly provided, this Act shall not affect any provision of the Public Health Act, 1902, the Pure Food Act, 1908, the Factories, Shops and Industries Act, 1962, the Weights and Measures Act, 1915, the Local Government Act, 1919, or the Stock Diseases Act, 1923, or any rules, regulations, ordinances or by-laws made under any of those Acts, or take away powers vested in any person or body by any of those Acts or by any rules, regulations, ordinances or by-laws made thereunder.

Dairy Industry Marketing Authority.

PART II.

THE DAIRY INDUSTRY MARKETING AUTHORITY.

DIVISION 1.—*Constitution of the Authority.*

7. (1) There is hereby constituted a corporation under the corporate name of the "Dairy Industry Marketing Authority" which—

Constitution of Authority. cf. Act No. 29, 1970, s. 8.

- (a) shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise of its powers, authorities, duties and functions (except when it makes a recommendation or report to the Minister), be subject to the control and direction of the Minister.

(2) The Authority shall consist of 3 full-time members appointed by the Governor and 4 part-time members appointed by the Minister.

(3) Schedule 2 has effect in relation to the constitution and procedure of the Authority.

DIVISION 2.—*Responsibilities and Powers, etc., of the Authority.*

8. The Authority is hereby charged with the regulation and control of—

Principal responsibility. cf. Act No. 59, 1931, s. 22; Act No. 29, 1970, s. 17.

- (a) the quality, supply and distribution of milk; and
- (b) the production, quality and storage of dairy products and margarine,

for the purposes of ensuring the wholesomeness and purity of milk, dairy products and margarine in the interests of public health.

Dairy Industry Marketing Authority.

Powers,
generally.
cf. Act No.
59, 1931,
ss. 25, 39;
Act No. 29,
1970,
ss. 18, 18s,
20.

9. (1) The Authority may—
- (a) establish and maintain laboratories and carry out research and make investigations into matters relating to milk, dairy products and margarine (including chemical, physical, bacteriological and economic research and investigations);
 - (b) devise and initiate as far as may be practicable improved methods of collecting, treating, carrying, storing, distributing, delivering, supplying and using milk, dairy products and margarine and of producing dairy products and margarine;
 - (c) devise and initiate as far as may be practicable means to prevent or eliminate wasteful, unnecessary or unhygienic agencies, methods, practices, costs or charges in connection with the collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, dairy products and margarine and with the production of dairy products and margarine;
 - (d) publish reports, information and advice concerning the collection, treatment, carriage, storage, distribution, delivery, supply, preservation, use and sale of milk, dairy products and margarine and the production of dairy products and margarine, and by these and other means encourage the consumption of milk, dairy products and margarine;
 - (e) subject to the regulations, establish grades, classes or descriptions of milk, dairy products and margarine;
 - (f) take all such steps as may be reasonably practicable to ensure that a retail supply of milk shall be available to any consumers who may require it; and
 - (g) prepare and implement a scheme or schemes and, from time to time, vary, replace or cancel any scheme prepared or implemented by it, for the purpose of determining the quantities of milk that may be delivered to or will be accepted by the Authority or the quantities

Dairy Industry Marketing Authority.

of any such milk for which payment will be made by the Authority at any particular price and, for the purposes of any such scheme, allocate quotas to any person producing milk for delivery to the Authority.

(2) The Authority shall, at such times as the Minister may require, report to and confer with the Minister upon all matters referred to in subsection (1), or generally affecting the administration of this Act, and recommend such amendments of the law as to the Authority may seem advisable.

(3) Where the Authority cancels or reduces a quota allocated by the Authority to a person in relation to the delivery to and acceptance of milk by the Authority, the Authority may, with the approval of the Minister (as to the giving or refusal of which he has an absolute discretion) pay, from the funds of the Authority, to the person who, in the opinion of the Authority, is the holder of the quota, such amount as, subject to subsection (4), the Minister specifies when giving his approval.

(4) The maximum amount that may be paid under subsection (3) upon cancellation or reduction of a quota is—

- (a) where the quota is cancelled—the product of \$4.7136 multiplied by the number that is the number of litres per week that comprised the quota; or
- (b) where the quota is reduced—the product of \$4.7136 multiplied by the number that is the number of litres per week by which the quota is reduced.

10. (1) The Authority may—

- (a) by notice in writing served on any person who has possession of any milk, dairy product or margarine which appears to the Authority to be deleterious to health, unwholesome or impure, direct that person not to supply that milk, dairy product or margarine for

Directions
in the
interests of
health, etc.

Dairy Industry Marketing Authority.

consumption or use and to deal with or dispose of that milk, dairy product or margarine in such manner as may be specified in the direction;

- (b) where an examination, a test or an analysis carried out on milk, a dairy product or margarine in the possession of any person indicates that that milk, dairy product or margarine is deleterious to health, unwholesome or impure or, where the Authority is of the opinion that any such milk, dairy product or margarine is, on its package, falsely or misleadingly described, by notice in writing served on that person, direct that person—
 - (i) not to supply that or any other milk, dairy product or margarine for consumption or use until such time as the Authority, in the like manner, withdraws that direction; and
 - (ii) to deal with or dispose of that or any other milk, dairy product or margarine that would, but for that notice, have been so supplied in such manner as may be specified in the notice;
- (c) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine to other persons, direct that dairy produce merchant not to sell that milk, dairy product or margarine to other persons or to any class of persons specified in the notice, except during the periods or between the times specified in the notice;
- (d) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or person, specified in the direction, in the course of his business as a carrier;
- (e) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine, direct him not to use or display, in connection with his business as a dairy produce merchant, any advertisement or any description, sign, notice, device or representation in the nature of an advertisement, which

Dairy Industry Marketing Authority.

does not correctly describe or represent the milk, dairy product or margarine sold, or the services offered, by that dairy produce merchant, as the case may be;

- (f) by notice in writing served on any dairyman or dairy produce merchant or other person concerned with the production of any milk, dairy product or margarine or the collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk or any dairy product or margarine, direct him to furnish such information or returns, including periodical information or returns, as is or are specified in the notice; and
- (g) by notice in writing served on any dairy produce merchant, whether or not he is appointed an agent of the Authority, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality of milk, dairy products or margarine, provided for or prescribed by or under this or any other Act.

(2) The Authority may exercise any of its powers under subsection (1) (a), (b) or (f) whether or not the power is exercised in, or the thing in respect of which the power is exercised is in or of, New South Wales.

(3) A person on whom a notice is served under subsection (1) and who, without reasonable excuse, neglects or fails to comply with the direction contained in the notice is guilty of an offence against this Act.

11. (1) Where it appears to the Authority—

- (a) that any substance, article, apparatus or other thing used by any dairy produce merchant in testing milk or producing or testing dairy products or margarine is unfit for the purpose for which it is intended to be used;

Directions
to take
remedial
measures.

Dairy Industry Marketing Authority.

- (b) that any substance, article, apparatus or other thing used for or in connection with milk, dairy products or margarine by a dairy produce merchant or carrier is unfit for that use;
- (c) that any storage facility or any conveyance used by a dairy produce merchant or carrier for the purpose of the storage or carriage of milk, dairy products or margarine is unfit for that purpose; or
- (d) that any milk store, dairy produce factory or dairy produce store is unfit for use for or in connection with an activity that a registered dairy produce merchant is authorised by his certificate of registration to carry on there,

the Authority may, by notice in writing served on the dairy produce merchant, carrier or registered dairy produce merchant, as the case may be, direct—

- (e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;
- (f) that substance, article, apparatus or other thing to be replaced or made fit for use for or in connection with milk, those dairy products or margarine;
- (g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk, those dairy products or margarine; or
- (h) that milk store, dairy produce factory or dairy produce store to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on him under subsection (1) is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

12. Where the Authority believes on reasonable grounds—Seizure of
contamin-
ated milk,
etc.

- (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence at any milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease; and
- (b) that any milk, dairy product or margarine, if so contaminated, would be unfit for human consumption,

the Authority may seize and destroy any milk, dairy product or margarine found at that milk store, dairy produce factory or dairy produce store at any time before the Authority is satisfied that there is no longer any risk of the milk, dairy product or margarine so found being contaminated by that disease or may, in relation to any such milk, dairy product or margarine, exercise any other power conferred on the Authority by this Act.

13. (1) The Authority may, with the approval of the Governor, exercise any one or more of the following powers, that is to say :—Trading
activities.

- (a) engage in the collection, treatment or wholesale or retail distribution of milk and any dairy product;
- (b) purchase or acquire in accordance with Division 2 of Part VI, or lease or rent, the undertaking or portion of the undertaking of any dairy produce merchant;
- (c) establish and conduct cool stores;
- (d) establish and conduct milk stores, dairy produce factories and dairy produce stores, distribute and sell milk and produce, distribute and sell any dairy product, ice and any other food;
- (e) purchase milk and any dairy product for resale or use.

Dairy Industry Marketing Authority.

(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 or not the power is exercised in, or the thing in respect of which the power is exercised is in or of or produced in, New South Wales.

Promotional
activities.

14. (1) The Authority may, by such means as it thinks fit, promote and encourage the production, supply, use, sale or consumption of milk and dairy products.

(2) Without limiting the generality of subsection (1), the Authority may, with the approval of the Minister, establish a committee to advise it with respect to any or all of the matters referred to in that subsection.

(3) A committee established under subsection (2) shall consist of such persons as are approved by the Minister and the Authority may, from the funds of the Authority, pay a member of the committee such fees for attending meetings of the committee, and such expenses and allowances, as the Minister from time to time determines in respect of that member.

Taking of
samples.

15. For the purposes of this Act, the Authority may take, without payment, samples of—

- (a) milk, from any dairy premises, milk store or dairy produce factory, or from any conveyance, utensil or container; or
- (b) dairy products or margarine or any fat, oil or other substance commonly used in the production of dairy products or margarine, from any milk store, dairy produce factory or dairy produce store, or from any conveyance, utensil or container.

Dairy Industry Marketing Authority.

DIVISION 3.—*Administrative Matters.*

16. (1) Such officers and temporary employees as may be necessary for the administration of this Act may be employed under Part IV of the Public Service Act, 1979. Employment of officers and employees.

(2) Notwithstanding subsection (1), the Authority may employ such casual or temporary employees as it deems necessary and may dismiss any such employees.

(3) Subject to the provisions of any award or industrial agreement made or filed under the Industrial Arbitration Act, 1940, that relate to the conditions of employment, including conditions relating to wages or other remuneration, of persons employed by the Authority under subsection (2), the Authority may determine those conditions.

17. (1) For the purposes of exercising and discharging the responsibilities, powers, authorities, duties and functions conferred or imposed on the Authority by or under this Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged with that Department, make use of the services of any of the officers or temporary employees of any Government Department. Authority may make use of certain employees of the Crown and statutory bodies.

(2) The Authority may, for the like purpose with the approval of any statutory body and the Minister, and on such terms as may be arranged with the statutory body, make use of the services of any of the officers, servants or employees of that statutory body.

18. (1) The Authority may, by instrument in writing under seal, delegate to a member or an officer of the Authority or to any officer or temporary employee of the Public Service employed in the Department the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Authority by or under this Act or any other Act as may be specified in the instrument of delegation. Power of Authority to delegate. cf. Act No. 59, 1931, s. 22A.

Dairy Industry Marketing Authority.

(2) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the member or officer to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Authority may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Authority.

(6) A certificate or other instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts be received in evidence as if it were a certificate or other instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be a certificate or other instrument signed by a delegate of the Authority.

Appoint-
ment of
authorised
agents.

19. (1) The Authority may, by order in writing, appoint any person to be an authorised agent to act as the Authority's agent for the purpose of carrying out, in such circumstances as may be specified in the order, such of the powers, authorities, duties and functions of the Authority as may be so specified.

(2) Where the Authority appoints an authorised agent under subsection (1) for the purpose of carrying out any powers, authorities, duties or functions of the Authority, those powers, authorities, duties and functions may be carried out by any employee, or agent, of that authorised agent who is authorised to do so by that authorised agent.

Dairy Industry Marketing Authority.

20. (1) In this section, "authorised officer" means—

- (a) an officer of the Authority; or
- (b) an officer or a temporary employee of the Department,

Powers of
certain
authorised
officers.

appointed by order in writing of the Authority to be an authorised officer for the purposes of this section.

(2) For the purposes of this Act, an authorised officer may, at any reasonable time—

- (a) subject to subsection (6), enter and, for as long as is reasonably necessary for the exercise of his powers under this section, remain in or on any dairy premises, milk store, dairy produce factory, dairy produce store, place or conveyance which is, or which the authorised officer suspects on reasonable grounds is, being used for or with respect to—
 - (i) the collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk; or
 - (ii) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of dairy products or margarine or of any fat, oil or other substance of any kind commonly used in the production of dairy products or margarine,

or which is, or which he suspects on reasonable grounds is, being used for the storage or custody of any accounts, records, books, documents or any other thing whatsoever relating to any such milk, dairy products, margarine, fat, oil or other substance;

- (b) search and inspect any dairy premises (other than such part of any dairy premises as is used for the production of milk), milk store, dairy produce factory, dairy produce store, place or conveyance and examine any milk, dairy product or margarine or any fat, oil or other substance of any kind commonly used in the production of dairy products or margarine, scales, measures, apparatus, churns, vats, appliances, containers, utensils,

Dairy Industry Marketing Authority.

- accounts, records, books, documents, labels, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;
- (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects on reasonable grounds contain, any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine;
 - (d) take copies of, or extracts or notes from, any such accounts, records, books, documents or labels;
 - (e) request any person found in or on any milk store, dairy produce factory, dairy produce store, place or conveyance referred to in paragraph (a) or any registered dairy produce merchant—
 - (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
 - (a) which relate to, or which the authorised officer suspects on reasonable grounds relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine; and
 - (b) which at the time of the request are in the possession or under the control of that person; and
 - (ii) to answer any question with respect to—
 - (a) any such accounts, records, books, documents, labels or other things whatsoever; or
 - (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy

Dairy Industry Marketing Authority.

product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine.

(3) Any person who—

- (a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;
- (b) resists or obstructs any authorised officer in the exercise of any such power;
- (c) fails to comply with any request by an authorised officer made under subsection (2) (e); or
- (d) furnishes to an authorised officer any information which is false or misleading in any material particular,

is guilty of an offence against this Act.

(4) A person shall not be guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (2) (e) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(5) A person is not excused from answering any question, if required to do so under subsection (2) (e), on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information furnished by him shall not be admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (3).

(6) On applying for admission to any premises which he is empowered by subsection (2) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises written evidence of his appointment as an authorised officer.

Dairy Industry Marketing Authority.

(7) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that portion of any dairy premises, milk store, dairy produce factory, dairy produce store, place or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(8) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

PART III.

REGULATION OF THE MILK SUPPLY.

DIVISION 1.—*Vesting of Milk in the Authority.*

21. (1) Milk—

- (a) supplied for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (b) supplied for use in the production in New South Wales, of dairy products,

is absolutely vested in and is the property of the Authority.

(2) Milk vested in the Authority by the operation of subsection (1) and accepted by the Authority at a place where the Authority accepts milk is so vested freed from all mortgages, charges, liens, pledges, interests and trusts affecting it, and the rights and interests of every person in that milk are converted into a claim for payment for the quantity of milk so accepted.

All milk supplied for consumption or use to vest in the Authority. cf. Act No. 59, 1931, s. 26.

Dairy Industry Marketing Authority.

22. (1) Every contract, whether made before or after the commencement of this Act, or provision in any such contract, so far as it relates to milk referred to in section 21 (1), is and shall be deemed to have been void and of no effect as from the date upon which the contract was made, except in so far as the contract relates to milk that has been accepted by the Authority or to the supply, sale or delivery of milk, the supply, sale or delivery of which is not prohibited under section 25 (6), or the contract had been completed before 1st July, 1970.

Avoidance
of contracts
for sale of
milk.
cf. Act No.
59, 1931,
s. 30.

(2) Any provision in a contract, being a provision referred to in subsection (1), shall be deemed to be severable.

(3) Any transaction or contract with respect to milk which is the subject-matter of any contract or provision of a contract declared by this section to be void shall also be void and of no effect, and any money paid pursuant to any such contract or provision or to any such transaction shall be repayable.

(4) The Minister may, by order published in the Gazette, declare that this section does not apply to or in respect of any contract specified in the order and made before 1st July, 1970, and subsections (1) and (3) do not apply to or in respect of any contract specified in an order in force under this subsection.

23. (1) Subject to this section, no proceedings at law or in equity shall be brought against the Authority or any person acting under its authority by any person claiming to be entitled under any bill of sale, mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, or the Co-operation Act, 1923) or other encumbrance over, of or upon any milk delivered by a dairyman to, and accepted by, the Authority, or claiming to be the true owner of any such milk, as against the dairyman who delivered the milk.

Remedy
against
Authority
confined
to claim
for account.
cf. Act No.
59, 1931,
s. 31.

(2) Any person who but for subsection (1) would have been entitled to bring any such proceedings may adopt the delivery of the milk to the Authority as a delivery thereof by him to the

Dairy Industry Marketing Authority.

Authority, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law to the contrary, any such person shall not be entitled to make any such claim for an account of the payments due in respect of the milk, or any part of those payments, unless he has given prior notice in writing to the Authority in the form and containing the particulars prescribed of the bill of sale, mortgage, charge, lien or other encumbrance, or the claim of ownership, and then only for such part of that money as has not been paid to any other person at the time of the receipt by the Authority of the notice.

Application
of Pure
Food Act,
1908.

24. Notwithstanding section 21 (1)—

- (a) all milk produced by a registered dairyman, being milk in his possession or in the possession of some person on his behalf, shall, for the purposes of the Pure Food Act, 1908, be deemed to be in the possession of that dairyman for the sale thereof within the meaning of that Act, and that Act and the regulations made thereunder shall apply accordingly; and
- (b) every delivery of milk at a place where the Authority will accept milk shall, for the purposes of the Pure Food Act, 1908, be deemed to be a sale of that milk to the Authority by the dairyman in whose name the milk was delivered, whether or not the milk is accepted wholly or in part by the Authority, and the provisions of that Act and of any regulations made thereunder shall apply accordingly.

Dairy Industry Marketing Authority.

DIVISION 2.—Delivery of Milk to the Authority.

25. (1) A registered dairyman may, subject to the provisions of this Act, deliver to the Authority any milk vested in the Authority under section 21.

Delivery and acceptance of milk. cf. Act No. 59, 1931, s. 27.

(2) Nothing in this Act shall be construed as requiring the Authority to accept all or any milk delivered to it by any person.

(3) The Authority may from time to time determine—

- (a) the quantity of milk per week which may be supplied by dairymen to and accepted by the Authority at any place appointed by the Authority at which milk will be accepted;
- (b) the quantity of milk or the number of milkings per week either morning or afternoon which may be delivered by a dairyman to and accepted by the Authority;
- (c) the places at which milk will be accepted by the Authority; and
- (d) the periods during which milk may be so delivered and accepted.

(4) Milk delivered to and accepted by the Authority may be disposed of by the Authority to dairy produce merchants or to other persons.

(5) Where any milk is not accepted by the Authority, the person who, but for section 21, would have been the owner of the milk—

- (a) is entitled to dispose of that milk in any manner, and subject to any conditions, specified in an instrument, in writing, authorising him to do so issued to him by the Authority; and
- (b) shall, unless the Authority otherwise determines and notifies him in writing before he disposes of the milk, be deemed to have been authorised to dispose of the milk in any manner, otherwise than by supplying it—

Dairy Industry Marketing Authority.

- (i) for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (ii) for use in the production, in New South Wales, of dairy products.

(6) A dairyman who, except as authorised by subsection (5), supplies, sells or delivers milk vested in the Authority under section 21 to a person other than the Authority is guilty of an offence against this Act.

(7) A person—

- (a) who buys or receives any milk knowing that it is supplied, sold or delivered in contravention of subsection (6); or
- (b) who buys by wholesale any milk at a price other than the price notified in respect of that milk by an order in force under section 55 (9),

is guilty of an offence against this Act.

(8) All milk delivered at a place where the Authority will accept milk shall be delivered in the name of the registered dairyman on whose dairy premises the milk was produced.

Duty to give notice of encumbrances. cf. Act No. 59, 1931, s. 32.

26. (1) Every person delivering milk to the Authority which is subject to any bill of sale, mortgage, charge, lien or encumbrance or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof (and whether the bill of sale, mortgage, charge, lien, encumbrance or contract was made before or after the commencement of this Act) shall, within 1 month after the making thereof, give to the Authority a notice in writing in the prescribed form of the bill of sale, mortgage, charge, lien, encumbrance or contract.

(2) Any person wilfully guilty of a failure to comply with the provisions of this section is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

27. (1) For the purposes of this Act, and of any regulation or order made, or notice, certificate or other document issued, thereunder, milk shall be deemed not to have been accepted by the Authority except to the extent specified in a determination made under subsection (2).

Determina-
tion of
quantity of
milk
accepted by
the
Authority.

(2) For the purposes of subsection (1)—

- (a) the quantity or quantities of milk, or the quantity or quantities of milk of any grade, class or description, that is or are accepted by the Authority from any person specified in the determination during any period so specified, at any time so specified or at any place so specified;
- (b) the purpose or purposes for which a quantity or quantities of milk specified in the determination as having been accepted by the Authority is or are or was or were used or to be used; or
- (c) the conditions under which any quantity of milk specified in the determination as having been accepted by the Authority was thereafter collected, treated, carried, stored, distributed, delivered or supplied,

is or are as the case may require—

- (d) such quantity or quantities, in respect of that person, period, time or place or that grade, class or description;
- (e) such purpose or purposes; or
- (f) such conditions,

as may be determined by the Authority or by any officer of the Authority authorised by it for the purposes of this subsection.

(3) Any such determination may be made at any time after the expiration of the period or after the time referred to in subsection (2) (a), whether or not the milk in respect of which the determination is made is milk specified in the determination as having been accepted by the Authority before or after the commencement of this Act.

Dairy Industry Marketing Authority.

(4) In any legal proceeding by or against the Authority, the Crown, the Government of New South Wales or any nominal defendant appointed under the Claims Against the Government and Crown Suits Act, 1912, a certificate by the Authority—

(a) to the effect that—

- (i) no milk;
- (ii) no milk of a specified grade, class or description;
- (iii) a quantity of milk; or
- (iv) a quantity of milk of a specified grade, class or description,

was, during a specified period or at a specified time, accepted by the Authority from a specified person at a specified place or stating the purpose or purposes for which no milk or a quantity of milk was so accepted; or

(b) as to the conditions under which any quantity of milk accepted by the Authority was thereafter collected, treated, carried, stored, distributed, delivered or supplied,

shall be conclusive evidence of the matters specified therein and of the fact that the place so specified was a place at which the Authority would, during that period, accept milk and any such certificate shall not be questioned, reviewed or examinable in any court.

(5) A determination referred to in subsection (2) made in relation to any milk, or a certificate under subsection (4) embodying any matters in respect of which any such determination has been made, shall have effect whether or not that milk was of any grade, class or description specified in the determination or certificate and whether or not any quantity or conditions under which that milk was collected, treated, carried, stored, distributed, delivered or supplied or any purpose for which that milk was used was or were as specified in the determination or certificate.

Dairy Industry Marketing Authority.

(6) No proceedings shall be taken in any court in any circumstances in relation to any act or thing done or omitted to be done pursuant or purportedly pursuant to this section, whether in relation to the making of a determination under subsection (2) by the Authority or an officer of the Authority or to the purported making of any such determination, or otherwise.

(7) Notwithstanding any other provision of this Act, the Authority or an officer of the Authority authorised by it for the purposes of subsection (2) may, in the exercise of its or his powers under that subsection, make a determination specifying a purpose or purposes for which a quantity or quantities of milk specified in the determination as having been accepted by the Authority is or was used or to be used notwithstanding that the purpose or purposes so specified is or are different from the purpose or purposes for which such milk is or was intended to be used or is or was actually used and any such determination shall not be rendered invalid by reason thereof.

DIVISION 3.—*Payment for Vested Milk.*

28. (1) The Authority shall, out of the proceeds of milk disposed of by the Authority under this Act, make provision for— Payments to dairymen.

- (a) expenditure incurred in the treatment, carriage, distribution and sale of the milk, the costs, charges and expenses incurred by the Authority, the Pricing Committee and the Department in the administration of this Act, other than Division 2 of Part IV, and any amounts necessary to repay advances made to the Authority; and
- (b) a sinking fund in respect of any loan raised by the Authority, and interest on any such advance or loan,

and, subject to this Act, shall, in accordance with subsection (2), make payments to each dairyman in respect of the milk accepted from him.

(2) The Authority shall, at such times as it thinks fit, pay to each dairyman in respect of milk delivered by him to, and accepted by, the Authority—

Dairy Industry Marketing Authority.

- (a) where that milk was accepted for human consumption, as milk, or for use by humans, as milk, an amount calculated at the rate of the minimum price notified in respect of that milk by an order in force under section 55 (9); and
- (b) where that milk was accepted by the Authority for use in the production, in New South Wales, of dairy products, an amount calculated at the rate of the minimum price notified by an order in force under section 55 (9)—
 - (i) in respect of milk supplied for that use; or
 - (ii) in respect of the milk fat content of milk supplied for that use,

whichever price is applicable or where either of those prices is applicable at the rate of either of those prices as the Authority thinks fit.

(3) Where milk produced under a share-farming or partnership agreement is delivered to and accepted by the Authority, the Authority may in its discretion make payment to each of the parties to the agreement in accordance with their interests in the milk delivered.

Advances by Authority. cf. Act No. 59, 1931, s. 29.

29. The Authority may make or arrange for the making of advances on account of milk delivered to the Authority, and any such advances and any payment made on account of any such milk may be made at such time or times, on such terms and conditions and in such manner as the Authority may think fit.

Authority not liable for payments made in good faith. cf. Act No. 59, 1931, s. 33.

30. Where the Authority in good faith and without negligence has made any payment—

- (a) to a dairyman delivering or causing to be delivered any milk to the Authority or any person acting under its authority;
- (b) to any person entitled or claiming to be entitled through such a dairyman; or

Dairy Industry Marketing Authority.

(c) to any person on the order of such a dairyman or of a person referred to in paragraph (b),

the Authority shall not be answerable to any other person in respect of that payment for the milk or any part thereof, or in any action or other proceedings, claim or demand whatsoever for damages or otherwise.

31. (1) If, before receiving notice of claim to any payment for milk vested in the Authority or to the chose in action or any part thereof the subject-matter of any such payment, the Authority has in good faith and without negligence made that payment, in whole or in part, in accordance with the provisions of this Division, the Authority shall not, to the extent to which it has made that payment, incur any liability to the true owner of the milk or chose in action or any part thereof or to any person claiming through, under or in trust for him.

Authority protected in certain cases. cf. Act No. 59, 1931, s. 34.

(2) This section does not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to the milk or chose in action the subject-matter or part of the subject-matter of any claim for payment.

(3) In any proceedings taken in any court by any such dairyman, transferee or party in respect of any such milk or chose in action or part, the Authority may plead this section as a defence to the proceedings.

Dairy Industry Marketing Authority.

PART IV.

REGULATION OF THE PRODUCTION OF MILK, DAIRY PRODUCTS
AND MARGARINE.DIVISION 1.—*Registration of Dairymen and Dairy Produce Merchants.*

Regis-
tration of
dairymen
and dairy
produce
merchants.
cf. Act No.
59, 1931,
s. 36.

32. (1) A dairyman who is not the holder of a certificate of registration as a dairyman is guilty of an offence against this Act.

(2) A dairy produce merchant—

(a) who is not the holder of a certificate of registration as a dairy produce merchant; or

(b) who, being the holder of a certificate of registration as a dairy produce merchant, carries on any activities relating to the production, treatment, storage, distribution, supply or sale of milk, dairy products or margarine other than activities which that certificate of registration authorises him to carry on,

is guilty of an offence against this Act.

(3) Except to the extent that any condition to which the certificate of registration is for the time being subject otherwise provides, a certificate of registration as a dairy produce merchant issued by the Authority authorises the holder to carry on only such activities as a dairy produce merchant as are specified in the certificate of registration.

(4) An application for a certificate of registration as a dairyman or dairy produce merchant shall—

(a) be made in or to the effect of the prescribed form; and

(b) be accompanied by the prescribed fee for making the application and for issuing the certificate of registration if the application is approved.

Dairy Industry Marketing Authority.

(5) The Authority may approve the application subject to such conditions as it thinks fit or refuse the application and, where it approves the application, shall issue to the applicant a certificate of registration as a dairyman or dairy produce merchant, as the case may require.

(6) A certificate of registration shall, unless sooner cancelled or surrendered, be in force until a day specified in the certificate that is not less than 1 year or more than 2 years after the date of issue of the certificate by the Authority which date shall also be specified in the certificate.

(7) Any conditions to which a certificate of registration is subject shall be specified in, or in a notice attached to, the certificate of registration when it is issued by the Authority and may include—

- (a) conditions as to the grade, class or description of milk, dairy products or margarine which the holder of the certificate is authorised to produce, treat, store, distribute, supply or sell;
- (b) conditions prohibiting the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area or in a manner specified in the certificate;
- (c) conditions requiring the holder of the certificate to subject milk, dairy products or margarine produced, treated, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;
- (d) conditions requiring the holder of the certificate to permit the Authority or any authorised officer within the meaning of section 20 or Division 2 of Part IV to exercise, in relation to that holder's activities as a dairyman or dairy produce merchant, any of the powers that the Authority or such an officer may exercise under Division 2 of Part II, Division 2 of Part IV or Division 1 of Part VIII; and

Dairy Industry Marketing Authority.

- (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.

(8) The Authority may by notice in writing served on the holder of a certificate of registration vary the conditions to which the certificate is subject for the time being by altering or revoking any of those conditions or may, in like manner, impose conditions or additional conditions to which the certificate is subject.

(9) The holder of a certificate of registration who fails to comply with any condition to which the certificate is for the time being subject is guilty of an offence against this Act.

Authority
may refuse
to issue
certificate,
etc.

33. (1) The Authority may refuse to issue a certificate of registration to, or may cancel the certificate of registration issued to, any person—

- (a) if he has been convicted of 2 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, dairy products or margarine;
- (b) if, in the opinion of the Authority, he is not a fit and proper person to hold such a certificate;
- (c) if, in the opinion of the Authority, any dairy premises, milk store, dairy produce factory, dairy produce store, conveyance or equipment occupied or used by him as a dairyman or dairy produce merchant are or is unsuitable;
- (d) if—
- (i) the certificate of registration is subject to a condition which prohibits the person from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and

Dairy Industry Marketing Authority.

- (ii) in the opinion of the Authority, the person has ceased to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area;
- (e) if he does not have any qualification that he is required by the regulations to have; or
- (f) if, in the opinion of the Authority, it is necessary or desirable, in the public interest or to enable the Authority to effectively carry out or give effect to any of the provisions of this Act, to refuse to issue or to cancel the certificate.

(2) 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.

(3) Before cancelling a certificate of registration upon the grounds specified in subsection (1) (a), (b) or (d), the Authority shall, in the prescribed manner, forward a notice in writing to the holder of the certificate of the grounds upon which the Authority proposes to cancel the certificate.

(4) A person to whom any such notice has been forwarded or a person whose application for a certificate of registration has been refused upon either of the grounds specified in subsection (1) (a) or (b) may in the manner and within a time prescribed appeal against the cancellation or refusal to a court of petty sessions held before a stipendiary magistrate.

(5) The court shall hear and determine the appeal and the decision of the court shall be final and shall be given effect to by the Authority.

(6) The court hearing an appeal under this section shall not, for the purposes of that hearing, be bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

Dairy Industry Marketing Authority.

Cancellation
of certificate
on cessation
of use.

34. (1) Where—

- (a) a condition to which a certificate of registration is subject prohibits the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and
- (b) the holder of the certificate ceases to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area, as the case may be,

he shall forthwith furnish a notice in writing to that effect to the Authority.

(2) Where the Authority receives a notice pursuant to subsection (1), it shall cancel the certificate of registration to which the notice relates.

(3) The holder of a certificate of registration who fails to comply with a requirement made of him by subsection (1) is guilty of an offence against this Act.

Registration
in respect of
certain
interstate
activities.

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

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

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—

- (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 32 (4) for a certificate of registration as a dairy produce merchant.

Dairy Industry Marketing Authority.

(2) The Authority may determine an application 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 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 33 shall be read as if—

- (a) the words “in the opinion of the Authority”, wherever occurring, were omitted from subsection (1);
- (b) the words “the grounds specified in subsection (1) (a), (b) or (d)” were omitted from subsection (3) and the words “the ground specified in subsection (2) or any of the grounds specified in subsection (1)” were inserted instead; and
- (c) subsections (4), (5) and (6) were omitted and the following subsections were inserted instead :—

(4) A person dissatisfied with the Authority’s decision—

- (a) to issue him with a certificate of registration as a dairy produce merchant that authorises him to carry on only such activities as a dairy produce merchant as are specified in the certificate;
- (b) to issue him with a certificate of registration as a dairy produce merchant subject to conditions; or
- (c) to vary the conditions to which his certificate of registration as a dairy produce merchant is subject for the time being or to impose conditions or additional conditions to which that certificate is to be subject,

and a person—

- (d) notified pursuant to subsection (3); or

Dairy Industry Marketing Authority.

- (e) whose application for a certificate of registration as a dairy produce merchant has been refused upon any of the grounds specified in subsection (1),

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.

(5) Subject to subsection (6), a court of petty sessions to which an appeal is made under this section shall hear and determine the appeal.

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

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

- (a) in the case of an appeal against a decision referred to in subsection (4) (a), (b) or (c), it was reasonably necessary in the interest of public health for that decision to be made; or
- (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.

(8) The Authority shall give effect to the decision of a court to which an appeal is made under this section.

DIVISION 2.—*Regulation of Dairy Premises.*

36. In this Division, “authorised officer” means—

- (a) an officer or a temporary employee of the Department; or

Dairy Industry Marketing Authority.

(b) an officer of the Authority,

appointed by order of the Director-General of the Department to be an authorised officer for the purposes of this Division.

37. (1) For the purposes of this Act, an authorised officer may— Powers of authorised officers, generally.

- (a) take, without payment, samples of milk from any dairy premises, or from any conveyance, utensil or container;
- (b) by notice in writing served on any dairyman, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality provided for or prescribed by or under this or any other Act for milk and dairy products;
- (c) by notice in writing served on any person who has possession of any milk which appears to the authorised officer to be deleterious to health, unwholesome or impure, direct that person not to supply that milk for consumption or use and to deal with or dispose of that milk in such manner as may be specified in the direction;
- (d) where an examination, a test or an analysis carried out on milk in the possession of any person indicates that the milk is deleterious to health, unwholesome or impure, by notice in writing served on that person, direct that person—
 - (i) not to supply any milk for consumption or use until such time as the Director-General of the Department or an authorised officer, in the like 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 manner as may be specified in the notice;

Dairy Industry Marketing Authority.

- (e) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or person, specified in the direction, in the course of his business as a carrier; or
- (f) by notice in writing served on any dairyman or other person concerned with the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, direct him to furnish such information or returns, including periodical information or returns, as are specified in the notice.

(2) An authorised officer may exercise any of his powers under subsection (1) (c), (d) and (f), whether or not the matter or thing in respect of which the power is exercised is in or of New South Wales.

(3) A person—

- (a) who resists or obstructs any authorised officer exercising his power under subsection (1) (a); or
- (b) who, being a person on whom a notice under subsection (1) (b), (c), (d), (e) or (f) has been served, without reasonable excuse neglects or fails to comply with the direction contained in the notice,

is guilty of an offence against this Act.

Authorised
officer
may order
remedial
measures.

38. (1) Where an authorised officer believes on reasonable grounds—

- (a) that any substance, article, apparatus or other thing used by any dairyman in producing milk is unfit for the purpose for which it is intended to be used;
- (b) that any substance, article, apparatus or other thing used for or in connection with milk by a dairyman is unfit for that use;
- (c) that any storage facility or any conveyance used by a dairyman for the purpose of the storage or carriage of milk is unfit for that purpose; or

Dairy Industry Marketing Authority.

- (d) that any dairy premises are unfit for use for or in connection with an activity that a registered dairyman is authorised by his certificate of registration to carry on there,

he may, by notice in writing served on the dairyman or registered dairyman, as the case may be, direct—

- (e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;
- (f) that substance, article, apparatus or other thing to be made fit for use for or in connection with milk;
- (g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk; or
- (h) those dairy premises to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on him under subsection (1) is guilty of an offence against this Act.

39. (1) For the purposes of this Act, an authorised officer may, at any reasonable time—

- (a) subject to subsection (5), enter and, for as long as is reasonably necessary for the exercise of his powers under this section, remain in or on any dairy premises or conveyance which are or is, or which the authorised officer suspects, on reasonable grounds, are or is, being used for or with respect to the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk;

Powers of entry, etc., of authorised officers.

Dairy Industry Marketing Authority.

- (b) search and inspect any dairy premises or conveyance and examine any milk, measures, apparatus, appliances, containers, utensils, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;
 - (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects, on reasonable grounds, contain, any milk;
 - (d) request any person found in or on any dairy premises or conveyance referred to in paragraph (a) or any registered dairyman—
 - (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
 - (a) which relate to, or which the authorised officer suspects, on reasonable grounds, relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk; and
 - (b) which at the time of the request are in the possession or under the control of that person; and
 - (ii) to answer any question with respect to—
 - (a) any such accounts, records, books, documents, labels or other things whatsoever; or
 - (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk.
- (2) Any person who—
- (a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;

Dairy Industry Marketing Authority.

- (b) resists or obstructs any authorised officer in the exercise of any such power;
- (c) fails to comply with any request by an authorised officer made under subsection (1) (d); or
- (d) furnishes to an authorised officer any information which is false or misleading in any material particular,

is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection (2) (c) by reason of his failure to answer any question referred to in subsection (1) (d) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person is not excused from answering any question, if required to do so under subsection (1) (d), on the ground that the answer might tend to incriminate him or make him liable to penalty, but the information furnished by him shall not be admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (2).

(5) On applying for admission to any premises which he is empowered by subsection (1) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises written evidence of his appointment as an authorised officer.

(6) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that portion of any dairy premises or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(7) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

Dairy Industry Marketing Authority.

Seizure of
contaminated
milk.

40. (1) Where an authorised officer believes on reasonable grounds—

- (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence on or in any dairy premises, have caused any milk to have become contaminated by that disease; and
- (b) that any milk, if so contaminated, would be unfit for human consumption,

the authorised officer may seize and destroy any milk found on those dairy premises at any time before the authorised officer is satisfied that there is no longer any risk of milk so found being contaminated by that disease or may, in relation to any such milk, exercise any other power conferred on the authorised officer by this Act.

(2) Every person who—

- (a) resists or obstructs any authorised officer in the exercise of any of his powers under subsection (1); or
- (b) refuses to give information, or gives information knowing it to be false or misleading in a material particular, in answer to any inquiry made by any authorised officer in the exercise of any of those powers,

is guilty of an offence against this Act.

DIVISION 3.—Regulation of Quality of Milk and Dairy Products.

Milk to be
pasteurised,
treated, etc.

41. (1) Any person who sells, otherwise than to a dairy produce merchant, milk that has not been—

- (a) pasteurised, processed by means of an ultra heat treatment method or sterilised; or

Dairy Industry Marketing Authority.

(b) treated in the prescribed manner,
is guilty of an offence against this Act.

(2) Any person who sells, otherwise than to a dairy produce merchant, milk that has not been pasteurised, processed by means of an ultra heat treatment method or sterilised by the holder of a certificate of registration that authorises that holder to carry on the activity of pasteurising, processing by means of an ultra heat treatment method or sterilising, as the case may be, milk, is guilty of an offence against this Act.

(3) Any person who sells, otherwise than to a dairy produce merchant, packaged or bottled milk that has not been packaged or bottled, as the case may be, by the holder of a certificate of registration 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.

(4) The power conferred by section 98 to exempt any person from any of the provisions of this Act does not extend to exempting a person from the provisions of subsection (1) except in relation to milk obtained from a dairy herd—

- (a) which has been certified, by the Chief, Division of Animal Health of the Department, to be free from tuberculosis and any other disease prescribed for the purposes of this subsection; and
- (b) to which an animal has not been admitted after the herd was so certified.

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

42. (1) In this section, "infectious disease" means any disease declared by the Governor, by order published in the Gazette, to be an infectious disease for the purposes of this section. Infectious diseases in milk.

Dairy Industry Marketing Authority.

(2) Where a medical practitioner is treating a person for an infectious disease and the medical practitioner is aware that that person or any other person who has come into contact with that person could, by reason of his presence on or in any dairy premises, milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease, the medical practitioner shall forthwith notify, in writing, the Health Commission of New South Wales, the Department and the Authority.

Putrescent
cream.

43. (1) The occupier of a dairy produce factory is guilty of an offence against this Act—

- (a) if he does not, forthwith after the receipt of any putrescent cream at the factory, treat the cream by adding to it a prescribed substance that does not decrease the value of the cream for animal food and—
 - (i) return the cream to the person by whom it was supplied; or
 - (ii) dispose of the cream otherwise than for the purpose of its being used as a food within the meaning of this Act; or
- (b) if he uses any putrescent cream in the production of dairy products or retains any putrescent cream at the factory for any longer than is necessary to comply with the requirements of paragraph (a).

(2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, dairy products or margarine otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of subsection (1), be deemed to be the occupier of that dairy produce factory.

Dairy Industry Marketing Authority.

44. (1) Any person who places or keeps, or causes to be placed or kept, any milk, dairy product or margarine— Storage of milk, etc.

(a) in any milk store, dairy produce factory or dairy produce store; or

(b) in or on any conveyance,

in such a manner that the milk, dairy product or margarine may be deteriorated either by heat or injurious smells, or by the proximity of unclean matter, is guilty of an offence against this Act.

(2) In subsection (1), “milk” means—

(a) milk supplied for human consumption, as milk, or for use by humans, as milk; and

(b) milk supplied for use in the production of dairy products.

DIVISION 4.—Grading of Milk, Cream and Dairy Products.

45. (1) In this Division—

“certificate” means a certificate issued under section 46 that is in force;

“cream” means cream separated from milk;

“permit” means a permit issued under section 47 that is in force.

Interpre-
tation:
Pt. IV,
Div. 4.

(2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, cream or dairy products otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of this Division, be deemed to be the occupier of that dairy produce factory.

46. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority shall issue a certificate to any person who has the prescribed Issue of certifi-
cates.

Dairy Industry Marketing Authority.

qualifications and who, to the satisfaction of the Authority, has passed the prescribed examination authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
- (b) determine the grade of cream; or
- (c) test milk and cream,

supplied or to be supplied to a dairy produce factory.

Issue of
permits.

47. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority may issue a permit to a person authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
- (b) determine the grade of cream; or
- (c) test milk and cream,

supplied or to be supplied to a dairy produce factory.

Grading and
testing to
be
authorised.

48. A person is guilty of an offence against this Act if, knowing or having reasonable grounds to suspect that his determination or the result of his test, as the case may be, will be used for the purposes of section 49, 50 or 52, he—

- (a) determines the grade of milk;
- (b) determines the grade of cream; or
- (c) tests milk or cream,

supplied or to be supplied to a dairy produce factory, unless he is the holder of a certificate or permit authorising him so to do.

Dairy Industry Marketing Authority.

49. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any butter at the factory unless the grade of the cream used in the production of the butter has been determined, by a person authorised by a certificate or permit to determine the grade of cream, before the butter is produced. Grading of cream used for butter.

50. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any dairy product, not being butter, at the factory unless the grade of the milk used in the production of the dairy product has been determined, by a person authorised by a certificate or permit to determine the grade of milk, before the dairy product is produced. Grading of milk used for certain products.

51. The occupier of a dairy produce factory is guilty of an offence against this Act if butter or any other dairy product for which a grade is prescribed under this Act is, at the factory, put up in a package that does not bear, as prescribed, a statement of its grade. Labelling of butter, etc.

52. (1) The occupier of a dairy produce factory shall, at the time and in respect of the periods prescribed, forward to each person who supplies milk or cream to the factory a statement in writing setting out— Notice of milk, etc., delivered.

- (a) the quantity of milk and the quantity of cream supplied to the factory by that person;
- (b) the quantity, if any, of the milk and cream so supplied that, to his knowledge, has not been accepted by the Authority;
- (c) the grade or grades, determined in the prescribed manner by a person authorised by a certificate or permit to determine the grade or grades, of the milk and cream so supplied; and

Dairy Industry Marketing Authority.

- (d) where the regulations so require, the milk fat content and any other prescribed qualities, determined in the prescribed manner by a person authorised by a certificate or permit to test milk and cream, of the milk and cream; and
- (e) where the regulations so require, the manner in which payment for the milk and cream has been calculated or otherwise determined.

(2) An occupier of a dairy produce factory who contravenes subsection (1) is guilty of an offence against this Act.

PART V.

FIXING OF CERTAIN DAIRY INDUSTRY PRICES.

DIVISION 1.—*The Dairy Industry Pricing Committee.*

Constitution of Dairy Industry Pricing Committee.

cf. Act No. 29, 1970, s. 42.

53. (1) There shall be a "Dairy Industry Pricing Committee" which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Part.

(2) Schedule 3 has effect in relation to the constitution and procedure of the Pricing Committee.

Pricing Committee may make use of certain employees of the Authority, etc.

cf. Act No. 29, 1970, s. 50.

54. For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Pricing Committee by or under this Part the Pricing Committee may, with the approval of the Minister and on such terms as may be arranged with the Authority or the Department, as the case may be, make use of the services of any of the officers of the Authority or officers and temporary employees of the Department.

Dairy Industry Marketing Authority.

 DIVISION 2.—*Prices of Milk and Declared Dairy Products.*

55. (1) The Pricing Committee may from time to time make a recommendation—

Pricing Committee may recommend prices for milk, etc.

- (a) for fixing the minimum price which may be paid to dairymen for milk;
- (b) for fixing the price which may be paid to or charged by any person for the collection, treatment, carriage, storage, distribution, supply or delivery of milk;
- (c) for fixing the price which may be paid by dairy produce merchants or other persons for milk bought by wholesale for re-sale or for use;
- (d) for fixing the maximum price at which milk may be sold by retail;
- (e) for fixing the price above or below which milk may not be sold by retail;
- (f) for fixing the minimum price which may be paid for milk sold by wholesale by dairymen, the milk fat content of which is to be used in the production, in New South Wales, of dairy products; or
- (g) for varying or revoking any order made under subsection (9).

(2) A recommendation made under subsection (1) may recommend—

- (a) different minimum prices under subsection (1) (a) or (f), according to any one or more of the following criteria :—
 - (i) differences in the grade, quality, description or quantity of milk;
 - (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk;
 - (iii) the different areas in which milk or the milk fat content of milk is produced;

Dairy Industry Marketing Authority.

- (iv) the different purposes for which milk or the milk fat content of milk is to be used;
- (b) different prices under subsection (1) (b) according to any one or more of the following criteria:—
 - (i) differences in the grade, quality, description or quantity of milk collected, treated, carried, stored, distributed, supplied or delivered;
 - (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply or delivery of milk;
 - (iii) the different areas in which milk is collected, treated, carried, stored, distributed, supplied or delivered; or
- (c) different wholesale prices, different maximum retail prices or different fixed retail prices under subsection (1) (c), (d) or (e) respectively according to any one or more of the following criteria :—
 - (i) differences in the grade, quality, description or quantity of milk;
 - (ii) differences in the conditions or methods of delivery, distribution, supply or sale of milk;
 - (iii) the different areas in which milk is to be delivered, distributed, supplied or sold;
 - (iv) the different purposes for which milk or the milk fat content of milk is to be used.

(3) A recommendation made under subsection (1) may describe the quality of milk wholly or partly by reference to the milk fat content of the milk.

(4) For the purposes of making a recommendation under this section, the Pricing Committee—

- (a) shall have regard to any report a copy of which is furnished to the Authority under section 57 (3);

Dairy Industry Marketing Authority.

- (b) may conduct an investigation for the purpose of obtaining such further information as it considers necessary;
- (c) shall, if the Minister so directs, hold in the manner prescribed, a public inquiry and shall have regard to any information received during that inquiry; and
- (d) may have regard to such other information as the Pricing Committee considers it necessary or desirable to have regard.

(5) For the purpose of conducting an investigation or holding an inquiry under subsection (4), the Pricing Committee shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon a commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, and that Act, section 13 and Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the Pricing Committee in the same way as it applies to a witness summoned by or appearing before a royal commission.

(6) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.

(7) Where the Pricing Committee has made a recommendation under this section—

- (a) in respect of milk of a class prescribed for the purposes of this subsection—it shall forward the recommendation to the Prices Commission; or
- (b) in respect of any other milk—it shall forward the recommendation to the Authority which shall forward it to the Minister together with any comments that the Authority sees fit to make in respect of the recommendation.

Dairy Industry Marketing Authority.

(8) The Minister may, after considering any recommendation of the Pricing Committee forwarded to him under subsection (7) (b) and any comments of the Authority accompanying the recommendation, approve or reject the recommendation.

(9) Where—

- (a) the Prices Commission receives a recommendation forwarded to it under subsection (7) (a), it may, after considering the recommendation—
 - (i) by order published in the Gazette, notify prices in respect of milk to which the recommendation relates, which prices may be the same as or different from those recommended, and vary or revoke any previous order in force under this subsection with respect to that milk; or
 - (ii) reject the recommendation and refuse to notify any prices as a consequence of its receipt of the recommendation; or
- (b) the Minister, under subsection (8), approves of a recommendation, he may, by order published in the Gazette, notify prices in respect of milk to which the recommendation relates in accordance with the recommendation and vary or revoke any previous order in force under this subsection with respect to that milk.

(10) Prices notified by an order published under subsection (9) take effect on and from a day (not being earlier than the date of publication of the order) specified in the order and shall continue to have effect until varied or revoked by a subsequent order made under subsection (9) by the Prices Commission or the Minister, as the case may require.

(11) Where a maximum price for milk sold by retail has been notified by an order in force under subsection (9), neither the Prices Commission nor the Minister may make an order fixing the price above or below which that milk may not be sold by retail unless it or he revokes the order fixing the maximum price for that milk.

Dairy Industry Marketing Authority.

(12) Any person who—

(a) sells—

- (i) milk by retail at a price exceeding the maximum price notified by an order in force under subsection (9) in respect of that milk;
- (ii) milk by wholesale at a price other than the price so notified in respect of that milk, or the milk fat content of that milk; or
- (iii) milk by retail at a price above or below the price notified by an order in force under subsection (9) as the price above or below which that milk may not be sold by retail,

with knowledge, where the price so notified applies to milk to be used for any particular purpose, of the purpose for which the milk sold is to be used; or

- (b) pays or charges any price for the collection, treatment, carriage, storage, distribution, supply or delivery of milk exceeding the price so notified in respect thereof,

is guilty of an offence against this Act.

56. (1) The Governor may, by order published in the Gazette, declare any dairy product to be a declared dairy product for the purposes of this section.

Pricing Committee may make recommendations for fixing prices for declared dairy products.

(2) The Pricing Committee may make a recommendation—

- (a) for fixing the minimum wholesale prices to be paid to producers of declared dairy products; or
- (b) for varying or revoking any order made under subsection (8).

(3) A recommendation made under this section may recommend different minimum wholesale prices according to differences in grade, quality, description or quantity, or the conditions of delivery, distribution or sale, of the declared dairy products,

Dairy Industry Marketing Authority.

the different areas in which the declared dairy products are produced or the different purposes for which the declared dairy products are to be used.

(4) For the purposes of making a recommendation under this section, the provisions of section 55 (4) and (5) apply to the Pricing Committee in the same way as they apply to the Pricing Committee for the purposes of making a recommendation under that section.

(5) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.

(6) Where the Pricing Committee has made a recommendation under this section it shall forward it to the Authority which shall forward it to the Minister, together with any comments the Authority sees fit to make in respect of the recommendation.

(7) The Minister may, after considering the recommendation of the Pricing Committee and any comments of the Authority, approve or reject the recommendation.

(8) Where the Minister approves of the recommendation, he may, by order published in the Gazette, notify wholesale prices in respect of declared dairy products in accordance with the recommendation of the Pricing Committee and those prices shall take effect on and from a day (not being earlier than the date of publication of the order) to be specified in the order and shall continue to have effect until varied or revoked by a subsequent order made on the recommendation of the Pricing Committee.

(9) Any person—

- (a) who, being the producer of a declared dairy product, sells, by wholesale, a declared dairy product;

Dairy Industry Marketing Authority.

(b) who buys, by wholesale, a declared dairy product from the producer thereof,

at a price less than the wholesale price notified by an order made under subsection (8) in respect of that declared dairy product is guilty of an offence against this Act.

DIVISION 3.—*Miscellaneous.*

57. (1) For the purposes of this Part, the Minister shall cause the Division of Marketing and Agricultural Economics of the Department to carry out surveys, at the times required under subsection (2), of the cost and income structure of the dairying industry in New South Wales with particular reference to the costs of on farm production of milk, the costs of the processing of milk and the costs of the production of dairy products.

Surveys to be conducted by the Department.

(2) A survey under this section shall be carried out at intervals of not more than 5 years but the Minister may, at the request of the Pricing Committee or otherwise, direct that a supplementary survey be carried out at such other times as he considers appropriate.

(3) The information obtained from any survey carried out under this section shall be embodied in a report a copy of which shall be furnished to the Authority.

58. (1) If, after any agreement is made for the sale and purchase of milk, the Prices Commission or the Minister in the exercise of its or his powers under section 55 notifies any price which affects either directly or indirectly the price to be paid to a dairyman under that agreement for milk supplied for human consumption, as milk, or for use by humans, as milk, or the price to be paid to or charged by any person under that agreement for the collection, treatment, carriage, storage, distribution, supply or delivery of milk supplied for human consumption, as milk, or for

Effect of price fixing on contracts.

Dairy Industry Marketing Authority.

use by humans, as milk, that agreement shall, as on and from the date the notification takes effect, be deemed to be altered as follows :—

- (a) where any minimum price to be paid to a dairyman for milk so supplied is so notified, the price so notified shall be substituted for the agreed price in the agreement where the agreed price is less than the minimum price notified in respect of milk of the grade, quality or description supplied or sold (whether or not grade, quality or description is specified in the agreement);
- (b) where any price is so notified for the collection, treatment, carriage, storage, distribution, supply or delivery of milk so supplied, and that price applies to milk in respect of which the agreement applies, that price shall, if it is less than the agreed price in the agreement, be substituted for the agreed price;
- (c) where the agreement is between a dairy produce merchant and a person other than a dairyman, and any agreement under which the dairy produce merchant acquired the milk has been varied by the operation of paragraph (a) or (b)—
 - (i) if the variation operates to increase the cost of the milk to the dairy produce merchant he may add to the agreed price in the agreement the net amount of the increase applicable to that milk; and
 - (ii) if the variation operates to decrease the cost of the milk to the dairy produce merchant, the purchaser may deduct from the agreed price in the agreement the net amount of the decrease applicable to that milk,

but in no case shall this paragraph operate to increase the price payable under any agreement to a price exceeding any maximum price so notified in relation to milk of the grade, quality or description sold (whether or not grade, quality or description is specified in the agreement).

Dairy Industry Marketing Authority.

(2) An order made by the Minister under section 55 or 56 or made by the Prices Commission under section 55 shall not apply to—

- (a) the price to be paid for any milk supplied otherwise than for human consumption, as milk, or otherwise than for use by humans, as milk;
- (b) the price to be paid or charged for the collection, treatment, carriage, storage, distribution, supply or delivery of any milk so supplied; or
- (c) the price to be paid for any declared dairy product, within the meaning of section 56, supplied,

under an agreement made before the order takes effect.

59. (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 commencement of this Act, 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.

(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.

60. Every document requiring authentication by the Pricing Committee may be sufficiently authenticated if signed by the chairman of the Pricing Committee and one other member of the Pricing Committee.

Documents
of Pricing
Committee
—how
authenti-
cated.

Dairy Industry Marketing Authority.

PART VI.

ACQUISITION OF PROPERTY BY THE AUTHORITY.

DIVISION 1.—*Acquisition of Land.*

Land—how
acquired.
cf. Act No.
59, 1931,
s. 64.

61. The Authority may acquire land for any purpose of this Act by lease or purchase, or by resumption or appropriation in accordance with the provisions of section 62.

Resumption
or appro-
priation of
land.
cf. Act No.
59, 1931,
s. 67.

62. (1) The Governor, on the application of the Authority, may, under the Public Works Act, 1912, resume any land, and appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

(2) Any such resumption or appropriation shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the Authority shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

(3) The provisions of the Public Works Act, 1912, sections 34, 35, 36 and 37 excepted, shall apply to and in respect of the acquisition of land under this section.

DIVISION 2.—*Acquisition of Undertakings.*

Interpreta-
tion: Pt. VI,
Div. 2.
cf. Act No.
59, 1931,
s. 68.

63. In this Division—

“owner”, in relation to an undertaking, means the person carrying on that undertaking;

“undertaking” means—

- (a) the business of a person engaged in the collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk, dairy products

Dairy Industry Marketing Authority.

or margarine, and any land, conveyances, machinery, equipment and plant mainly used in connection with that business; and

- (b) part of any undertaking defined by paragraph (a).

64. (1) If the Authority determines that an undertaking should, in the public interest, be taken over by the Authority it may apply to the Governor through the Minister for authority to take over the undertaking.

Resumption
of under-
taking.
cf. Act No.
59, 1931,
s. 69.

(2) Before the Governor approves of any such application, the Authority shall make provision to the satisfaction of the Governor for payment of compensation, interest and all necessary costs and charges incidental to the taking over of the undertaking.

(3) The Governor may approve of any such application and authorise the Authority to take over the undertaking specified in the application.

(4) Where the Governor has authorised the Authority to take over any undertaking, it may, by notice served on the owner of the undertaking, notify him that, as on and from a date specified in the notice, not being less than 1 month after the service of the notice, the undertaking shall be taken over by the Authority, and thereupon the following provisions shall have effect :—

- (a) the owner may, by notice in or to the effect of the prescribed form, require the Authority to purchase the conveyances, machinery, equipment and plant, and his estate or interest in any land, mainly used by him in connection with the undertaking to be so taken over;
- (b) any such conveyances, machinery, equipment, and plant shall be purchased at a price which shall not exceed the then replacement value of the conveyances, machinery, equipment or plant, having regard to their age and condition at the time of their being actually handed over to the Authority, together with a sum equal to 10 per cent of that value;

Dairy Industry Marketing Authority.

- (c) any land shall be paid for at the then market value of the estate or interest of the owner of the undertaking therein;
- (d) the Authority may, at any time after the expiry of 7 days after the receipt of a notice requiring the Authority to purchase, and shall, not later than 1 month after the receipt of the notice, take possession of the conveyances, machinery, equipment and plant, and the land, of the owner on a date notified to that owner and the day on which possession is taken shall be the date as at which the values shall be ascertained;
- (e) where the owner requires the Authority to purchase his estate or interest in any land, he shall satisfy the Authority that he has a good marketable title to that estate or interest, and shall obtain the concurrence in the assurance thereof to the Authority of any mortgagee thereof and of any person entitled to any interest in the conveyances, machinery, equipment and plant purchased.

Valuation.
cf. Act No.
59, 1931,
s. 70.

65. (1) Upon receipt of a notice under section 64 (4) (a) from an owner of an undertaking requiring the Authority to purchase any property, the Authority shall forthwith cause a valuation to be made of the conveyances, machinery, equipment and plant, and of the estate or interest in the land, required to be purchased.

(2) The Authority may, with the approval of the Minister in charge of the Government Department concerned, make use of the services of any officers of the Public Service for the purpose of making the valuation.

(3) For the purpose of the making of the valuation the owner of the undertaking shall permit any person authorised by the Authority so to do to enter his premises at any reasonable time, and to make full inspection of the land, conveyances, machinery, equipment and plant required to be purchased.

(4) Notwithstanding any other provision of this Part, in valuing any estate or interest in land for the purposes of this section any increase in the value of the land attributable directly or indirectly to the operation of this Act shall not be taken into account.

Dairy Industry Marketing Authority.

(5) No compensation shall be payable in respect of goodwill.

(6) The Authority shall in accordance with the provisions of this Division determine the amount to be paid in respect of any undertaking taken over by the Authority, and shall notify the owner of that amount.

66. (1) If any owner whose undertaking is taken over by the Authority under this Division is aggrieved by the determination of the Authority as to the amount to be paid in respect of the taking over of the undertaking he may appeal to the Land and Environment Court against the determination in accordance with rules of court, and the Land and Environment Court shall have jurisdiction to hear and determine the appeal.

Appeal.
cf. Act No.
59, 1931,
s. 71.

(2) The Authority may exercise its powers under section 64 (4) (d) notwithstanding that any appeal is pending under subsection (1).

67. The amount payable under the provisions of this Division upon the taking over of an undertaking shall carry interest at the rate of 4 per cent per annum as from the date upon which the Authority takes possession of the land, conveyances, machinery, equipment and plant until the date of payment.

Interest.
cf. Act No.
59, 1931,
s. 72.

68. Until the date notified by the Authority as the date on which the land, conveyances, machinery, equipment and plant are to be taken possession of by the Authority the owner of the undertaking shall continue to carry on the undertaking in a manner equally as satisfactory as it was carried on before the notice pursuant to section 64 (4) (d) was given by the Authority, and if, in the opinion of the Authority, the undertaking is not so carried on the Authority may give notice to the owner specifying the par-

Owner to
carry on
until
under-
taking
handed
over.
cf. Act No.
59, 1931,
s. 73.

Dairy Industry Marketing Authority.

particular matters which are unsatisfactory, and requiring the owner to remedy those matters within a time specified in the notice, and in default of compliance with that notice the Authority may—

- (a) rescind the notice given pursuant to section 64 (4) (d) and thereupon the obligation of the Authority to purchase the undertaking of the owner or to pay any amount in connection therewith shall be terminated as from the date of the notice of rescission; or
- (b) require that compensation be allowed the Authority for any loss arising out of the failure of the owner to carry on the business in a satisfactory manner or to comply with the requirements of any notice of default given by the Authority under this section.

Purchase.
cf. Act No.
59, 1931
s. 74.

69. Nothing in this Division shall preclude the Authority from purchasing any undertaking, but such a purchase shall not be made if the purchase price exceeds the amount that would be payable in accordance with this Division if the Authority were required to purchase the undertaking under this Division.

PART VII.

FINANCE.

DIVISION 1.—Accounts and Audits.

Accounts. **70.** (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

Dairy Industry Marketing Authority.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Authority.

(4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Authority shall be the year commencing on 1st July.

71. (1) The accounts and records of financial transactions of the Authority, and the records relating to assets of or in the custody of the Authority, shall be inspected and audited by the Auditor-General. Audit.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

Dairy Industry Marketing Authority.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of the Authority, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- (iii) any of the money or other property of the Authority has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Dairy Industry Marketing Authority.

 DIVISION 2.—*Investment and Borrowing.*

72. The Authority may invest moneys held in government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

Investment
of funds.

73. (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

Temporary
accommodation.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

74. The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money for—

Purposes
for which
money may
be
borrowed.

- (a) the purpose of carrying out and discharging any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

75. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

Reserves for
repayment.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

Dairy Industry Marketing Authority.

(3) Money held as reserve for loan repayment fund may be invested in government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, that balance shall form part of the funds of the Authority.

(8) The reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

Dairy Industry Marketing Authority.

76. (1) For securing repayment of the principal and interest on any money borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. Debentures,
etc.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(5) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(6) Any liability arising from any such guarantee shall be payable out of money provided by Parliament.

(7) The charge created by subsection (5) shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of the charge.

77. (1) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest money in his hands in stock inscribed by the Authority, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925. Trustees.

Dairy Industry Marketing Authority.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any money which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of that money.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

Lost
debentures.

78. (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof.

(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before it has been paid off;
- (b) such advertisement as the Supreme Court may direct has been published;
- (c) 6 months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

Dairy Industry Marketing Authority.

(5) The provisions of this section shall extend to the case of a lost, destroyed or defaced coupon in the same way as they apply to the case of a lost, destroyed or defaced debenture or bond.

79. (1) A person advancing money to the Authority shall not be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or mis-application. Protection of investments.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

80. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above another by reason of priority of date or otherwise. Debentures and bonds to rank pari passu.

PART VIII.

SUPPLEMENTARY.

DIVISION 1.—*Additional Powers of Authorised Officers.*

81. In this Division, "authorised officer" means a person appointed to be an authorised officer under section 20 (1) or 36. Interpretation: Pt. VIII, Div. 1.

82. (1) An authorised officer who finds a person committing an offence against this Act or the regulations or who suspects, on reasonable grounds, a person of having committed or attempted to commit any such offence, may demand from that person his name and place of abode. Demanding name and place of abode.

Dairy Industry Marketing Authority.

(2) Any person who, upon demand made under subsection (1) and upon production of written evidence of the appointment of the authorised officer making the demand—

- (a) fails or refuses to state his name or place of abode; or
- (b) gives a false name or place of abode,

is guilty of an offence against this Act.

Inspection
of vehicles.

83. (1) In this section—

“dairy product” includes a dairy product that is not a New South Wales dairy product;

“margarine” includes margarine that is not New South Wales margarine;

“milk” includes milk that is not New South Wales milk;

“officer” means—

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

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

“place” includes road, whether public or otherwise.

(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.

(3) The driver or person in charge of a vehicle approaching a sign referred to in subsection (2) from the direction in which the sign is facing 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.

Dairy Industry Marketing Authority.

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

- (a) inspect any vehicle, any milk, dairy product or margarine in or on any vehicle and examine any books, documents, papers, scales, measures, appliances, apparatus, containers or utensils, referring to or used in connection with milk, dairy products or margarine in or on any vehicle;
- (b) take, without payment, samples of any milk, dairy product or margarine in or on any vehicle;
- (c) take copies of, or extracts or notes from, any books, documents or papers referred to in paragraph (a); and
- (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—

- (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 vehicle, any part of a vehicle or anything in or on a vehicle to inspection by an officer acting 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 after having been required so to do under subsection (4) (d),

is guilty of an offence against this Act.

84. (1) In subsection (2), “officer” has the meaning ascribed thereto in section 83 (1). Personation
of certain
officers.

(2) Any person who forges or counterfeits any written evidence of appointment of an officer or makes use of any forged, counterfeited or false written evidence of any such appointment or personates an officer or falsely pretends to be an officer is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

 DIVISION 2.—*Investigation of Complaints by Dairymen.*

Interpre-
tation:
Pt. VIII,
Div. 2.

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

“conduct” means—

(a) any conduct; or

(b) any conduct of a class,

for the time being prescribed for the purposes of this definition;

“investigation” means investigation into conduct that is the subject of a complaint under section 87;

“Special Officer”, in relation to an investigation, means the Special Officer nominated under section 86 (1) in respect of the investigation.

Special
Officer.

86. (1) The Minister may nominate an officer or temporary employee of the Department or an officer of the Authority to carry out an investigation in relation to a complaint made under section 87.

(2) A person nominated under subsection (1) in respect of an investigation shall have and may exercise and discharge, in relation to the investigation, the powers, authorities, duties and functions conferred upon a Special Officer by or under this Part.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1979.

Complaint.

87. (1) Subject to subsection (2), any dairyman may complain to the Minister about the conduct of the Department or 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 complained of, the remedy or relief sought and the reasons why the remedy or relief should be granted or provided.

Dairy Industry Marketing Authority.

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

(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.

(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) where the complaint relates to the alleged conduct of—

(i) the Department—to the Department; or

(ii) the Authority—to the Authority.

(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 Department, the Authority or the complainant.

89. (1) Where the Special Officer receives a notice referred to in section 88 (3) concerning a complaint, he shall carry out an investigation in relation to the complaint. Investiga-
tion.

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

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

(a) to give him a statement of information;

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

Dairy Industry Marketing Authority.

- (c) to give him a copy of any document; and
- (d) to answer any question.

(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 Department and the Authority shall comply with any requirements made of them by a Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Department or the Authority, sets aside that requirement.

(6) This Division does not enable a Special Officer to require the Department or 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
- (d) to answer any question,

which relates to conduct of business within the Department or 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 with the Minister on the conduct the subject of the investigation.

Person to
be heard.

90. Where, in an investigation, the Special Officer considers that there are grounds for adverse comment in respect of the Department or the Authority, any officer or temporary employee of the Department, any member or officer of the Authority or any person of whose services use is made by the Authority under section 17, the Special Officer, before making any such comment in any report or recommendation to the Minister, shall, so far as is practicable—

Dairy Industry Marketing Authority.

- (a) inform the Department, the Authority or that individual of the substance of the grounds for adverse comment; and
- (b) give the Department, the Authority or that individual an opportunity to make submissions to the Special Officer.

91. (1) After an investigation under this Division the Special Officer shall make a recommendation to the Minister.

Action following investigation.

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

(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 Department or the Authority, whichever is concerned, of the grounds upon which he proposes to take, or direct the taking of, that action.

(4) The Department or 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 Department or the Authority in respect of that decision.

(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.

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

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

Dairy Industry Marketing Authority.

 DIVISION 3.—*Proceedings for Offences.*

Proceedings
for an
offence,
generally.

92. Proceedings for an offence against this Act or the regulations may be disposed of in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Informa-
tions.

93. (1) Any information, complaint, or other legal proceeding under this Act may be laid or taken in the name of the Authority by the secretary or by any other officer authorised by the Authority in that behalf either generally or in any particular case.

(2) In any proceedings the production of a notification in the Gazette that any person has been so authorised shall be conclusive evidence of his authority and evidence that his authority to act remains in force.

(3) The secretary or other officer of the Authority shall, out of the funds of the Authority, be reimbursed all damages, costs, charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection (1).

Proof of
certain
matters not
required.

94. In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any officer of the Authority;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

Dairy Industry Marketing Authority.

95. In any proceedings in any court or before any persons Evidence. having by law or consent of parties authority to hear, receive and examine evidence—

- (a) any printed paper purporting to be—
 - (i) an order made and published under this Act; and
 - (ii) printed by the Government Printer,shall be evidence that an order in the words printed in that paper was duly made and published under this Act; and

- (b) a certificate purporting to be signed by the Chairman or Deputy Chairman or 2 members certifying—
 - (i) that a person has been appointed as the delegate of the Authority under section 18 and specifying what powers, authorities, duties or functions of the Authority were delegated to him and the period during which he was a delegate;
 - (ii) that a person was appointed as an authorised agent under section 19 (1) and specifying for what purposes and in what circumstances he was authorised to act as the agent of the Authority and the period during which he held that appointment;
 - (iii) that on a day, or during a period, specified in the certificate, a person was or was not registered as a dairyman and, if the certificate certifies that he was so registered, certifying the conditions to which the certificate of registration issued to him was subject; or
 - (iv) that on a day, or during a period, specified in the certificate, a person was or was not registered as a dairy produce merchant and, if the certificate certifies that he was so registered, certifying the conditions to which the certificate of registration

Dairy Industry Marketing Authority.

issued to him was subject and the activities he was authorised to carry on by that certificate of registration,

shall be prima facie evidence of the facts stated therein.

Proof of exemption.

96. In any proceedings for an offence against this Act the onus of proving any exemption under section 98 lies on the defendant.

DIVISION 4.—*Miscellaneous.*

Annual report.

97. (1) As soon as practicable after 30th June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on that date.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

Exemptions.

98. (1) The Minister may, by order published in the Gazette, declare that all of the provisions of this Act, or any of the provisions of this Act specified in the order, do not apply to or in respect of—

- (a) any dairyman or any dairyman of a class;
- (b) any dairy produce merchant or any dairy produce merchant of a class;
- (c) any person or any person of a class;
- (d) any dairy premises or any dairy premises of a class;
- (e) any milk store or any milk store of a class;
- (f) any dairy produce factory or any dairy produce factory of a class;

Dairy Industry Marketing Authority.

- (g) any dairy produce store or any dairy produce store of a class;
 - (h) any milk, dairy product or margarine or any milk, dairy product or margarine of a class; or
 - (i) any part of the State,
- specified in the order.

(2) Any such order shall take effect on and from a date specified therein, not being earlier than the date of the publication of the order in the Gazette.

(3) An order made under subsection (1) (a), (b) or (c) may be absolute or may be subject to such conditions as are specified by the Minister in the order.

(4) For the purposes of subsection (1), a class may be defined by reference to such circumstances or factors as the Minister thinks fit and specifies in the order.

(5) If any person to whom an order under subsection (1) (a), (b) or (c) relates fails to comply with any condition subject to which the order was made, the Minister may, by order published in the Gazette, amend the order by excluding that person from its operation.

(6) An order made under this section has effect according to its tenor.

99. (1) Where under the provisions of this Act or the regulations the Authority—

Fixing of fees and charges.

- (a) supplies any service, product or commodity;
- (b) gives any permission;
- (c) prepares and issues any certificate or other document;

F

Dairy Industry Marketing Authority.

- (d) furnishes any information;
- (e) makes any registration; or
- (f) receives any application for its approval,

the charge or fee therefor may be fixed by the regulations or, where there is no charge or fee so fixed, the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

(2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of any such charge or fee.

(3) Different charges or fees may be fixed according to such circumstances or factors as are specified in the regulation or resolution.

(4) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, certificate, document or information is supplied, given, prepared or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

Recovery of
charges,
etc.

100. Any charge, fee or money due to the Authority under the provisions of this Act may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

Power to
impose
conditions
and fix
liquidated
damages.

101. The Authority may, in any agreement, authority, licence or certificate entered into or issued by it, insert conditions and fix a sum as and by way of liquidated damages for any breach of conditions and those damages shall be recoverable accordingly.

Dairy Industry Marketing Authority.

102. Any summons, writ or other proceeding to be served on the Authority may be served by being served on any member or the secretary. Service of notice of proceedings on the Authority.

103. (1) The Governor may make regulations for or with respect to— Regulations.

- (a) grades, classes, descriptions and standards of quality of milk, dairy products and margarine which may be supplied or supplied for sale or sold;
- (b) the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, dairy products and margarine;
- (c) prohibiting the production of any grade, class or description of milk, dairy products or margarine from ingredients not approved, or from ingredients obtained from a source not approved, by the Authority;
- (d) the installation of equipment to be used on dairy premises, dairy produce factories, milk stores, and dairy produce stores, the type and design of, and the specifications required to be complied with by, any such equipment and requiring the certification, pursuant to the regulations, of persons engaged in the installation of any such equipment;
- (e) the construction, alteration and maintenance of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- (f) the provision, construction and equipment of laboratories and the equipment to be used thereon or therein in dairy produce factories, milk stores and dairy produce stores and the provision of staff in any such laboratories for the purpose of ensuring the wholesomeness and purity of milk, dairy products and margarine;
- (g) the treatment of milk, dairy products and margarine by holders of certificates of registration;

Dairy Industry Marketing Authority.

- (h) the cleaning and sterilising of cans, vessels, utensils, appliances and equipment used in dairy premises, dairy produce factories, milk stores and dairy produce stores and regulating the size, design and construction of any package used in connection with milk, dairy products or margarine;
- (i) the particulars to be kept by dairymen in respect of their herds;
- (j) the books and records to be kept and the notices to be given by persons engaged in the production, collection, treatment, carriage, storage, distribution, delivery, use or sale of milk, dairy products or margarine and the particulars required to be recorded therein;
- (k) the inspection of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- (l) the forms of applications, notices, certificates, statements and other instruments to be used for the purposes of this Act, the manner in which any application under this Act is to be made and the fees payable in connection with any such instrument or application;
- (m) the service of notices, orders, demands or requirements by the Authority or the Department or any officer of the Authority or officer or temporary employee of the Department;
- (n) making payments in respect of—
 - (i) milk vested in the Authority; and
 - (ii) any food that is a declared dairy product within the meaning of section 56, and cream or milk that is not accepted by the Authority;
- (o) the powers, authorities, duties and functions of the Authority, the Pricing Committee and the Department;
- (p) the fees to be paid for inspections made by the Authority or the Department;
- (q) prescribing the qualifications to be possessed and the examinations to be passed by persons employed in grading or testing milk or cream;

Dairy Industry Marketing Authority.

- (r) prohibiting persons from being employed in dairy produce factories as butter or cheese makers or in any other prescribed capacity unless they possess the prescribed qualifications and pass the prescribed examinations;
- (s) the issue of certificates and permits, and the duration, renewal and cancellation of certificates and permits issued under this Act or the regulations;
- (t) the procedure for taking samples for the purposes of this Act or the regulations;
- (u) the methods of testing or analysis under this Act or the regulations of any milk, dairy product or margarine;
- (v) the manner in which a payment for milk (other than milk accepted by the Authority) supplied to a dairy produce factory is to be calculated or otherwise determined; and
- (w) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(3) A regulation may adopt wholly or partly or by reference any codes, rules, specifications or provisions which relate to any matter with which the regulation deals and which are—

- (a) recommended or adopted by the Standards Association of Australia;

Dairy Industry Marketing Authority.

- (b) included in any document issued by any Department of the Crown in right of this or any other State or of the Commonwealth or issued by any instrumentality of this or any other State or of the Commonwealth constituted by an Act of the Parliament thereof;
- (c) approved by the Minister and published in the Gazette;
or
- (d) prescribed by any Act or by any regulation, rule, by-law or ordinance made under any Act.

(4) A regulation may, wholly or partly, prescribe the manner of determining whether or not any substance belongs to a class of milk, cream, dairy products or margarine by reference to—

- (a) the milk fat content or any other quality of the substance;
or
- (b) the milk fat content or any other quality of any ingredient used in the production of the substance,

estimated in the prescribed manner.

(5) A regulation shall not be made under subsection (1) (a), (b), (g) or (h) except with the approval of the Health Commission of New South Wales.

(6) Before a regulation is made under this section, the terms of the proposed regulation shall be considered by the Authority and the Director-General of the Department.

(7) It shall be conclusively presumed that the requirement of subsection (6) has been satisfied in respect of any regulation purporting to have been made under this Act that is published in the Gazette.

Dairy Industry Marketing Authority.

(8) The regulations may provide that a person who contravenes a regulation is liable—

- (a) to a penalty not exceeding \$500; and
- (b) if the contravention continues, to a further penalty not exceeding \$50 for each day for which the contravention continues.

(9) A regulation may provide that in addition to imposing a penalty for a contravention of the regulation, the court imposing the penalty may order the defendant to pay to the Authority or the Department an amount specified in the order equal to the amount of any expense incurred by the Authority or the Department as a consequence of the contravention of the regulation and any amount so ordered to be paid shall be recoverable by the Authority or the Department, as the case may be, as a debt in any court of competent jurisdiction.

104. (1) In this section, “authorised officer” means a person appointed to be an authorised officer under section 20 (1) or 36. **Search warrant.**

(2) Upon a complaint made on oath by an authorised officer that the officer suspects on reasonable grounds that a contravention of this Act or the regulations has been or is being committed, or that preparation has been or is being made to commit such a contravention, within any dwelling, a stipendiary magistrate may issue a search warrant authorising an authorised officer named in the warrant together with a member of the police force at any time or times within 14 days from the date of issue of the warrant to enter, if need be by the use of reasonable force, the dwelling named or described in the warrant, and to search the dwelling and any fixtures or fittings therein.

105. Every person who—

- (a) resists or obstructs any officer of the Authority exercising any of the powers of the Authority or otherwise acting in the course of his duty;

Offence of obstruction, etc.

Dairy Industry Marketing Authority.

- (b) in relation to any inquiry made by any officer of the Authority acting in the course of his duty, gives information knowing it to be false or misleading in a material particular;
 - (c) being the holder of a certificate of registration, sells, distributes or supplies for sale milk which is not of a grade, class or description that he is authorised by the certificate to sell, distribute or supply; or
 - (d) sells, distributes or supplies milk to a person carrying on the business of a dairy produce merchant who is not the holder of a certificate of registration as a dairy produce merchant or, being a dairy produce merchant, purchases milk for re-sale from a person who is not the holder of a certificate of registration as a dairy produce merchant,
- is guilty of an offence against this Act.

Penalties.

106. A person who is guilty of an offence against this Act, other than section 106 (3), is liable—

- (a) to a penalty not exceeding \$2,000;
- (b) to imprisonment for not more than 6 months; and
- (c) if the offence continues, to a further penalty not exceeding \$100 for every day for which the offence continues.

Repeal and
amendment
of certain
Acts.

107. (1) Each Act specified in Column 1 of Part 1 of Schedule 4 is, to the extent specified opposite that Act in Column 2 of that Part of Schedule 4, repealed.

(2) Each Act specified in Column 1 of Part 2 of Schedule 4 is amended in the manner set forth opposite that Act in Column 2 of that Part of Schedule 4.

Savings and
transitional
provisions.

108. Schedule 5 has effect.

Dairy Industry Marketing Authority.

SCHEDULE 1.

Secs. 4 (1),
5 (1).

DEFINITION OF MILK.

Cream.

Milk for separation into cream.

Milk or cream that has been treated for the purpose of pasteurising or sterilising the milk, whether or not the pasteurisation or sterilisation is complete.

Milk that has been treated for the purpose of homogenising the milk, whether or not the homogenisation is complete.

Ultra heat treated milk, or milk that has been treated by an ultra heat treatment method, whether or not the treatment is complete.

Any liquid produced from the lacteal secretion of the cow for sale or sold or to be sold under any of the following fancy, trade or proprietary names or descriptions:—

Life

HI-LO

PRIMMA

MAID-GLO

UHT milk, longlife milk, UHT longlife milk or longlife UHT milk.

 SCHEDULE 2.

Sec. 7.

CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

1. (1) Of the 7 members—

(a) 1 full-time member shall be a person nominated by the Minister as Chairman of the Authority;

Qualifications of members.

(b) 1 full-time member shall be a person—

(i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and

(ii) nominated by the Minister to represent dairymen and as Deputy Chairman of the Authority;

(c) 1 full-time member shall be a person nominated by the Minister to represent the consumers of milk, dairy products and margarine;

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- (d) 1 part-time member shall be a person—
- (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to sell milk from a vehicle; and
 - (ii) appointed by the Minister to represent milk vendors;
- (e) 1 part-time member shall be a person—
- (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to pasteurise or sterilise milk, or to process milk by means of an ultra heat treatment method, at a place in New South Wales, to produce dairy products at a place in New South Wales or to process dairy products at any such place after their manufacture; and
 - (ii) appointed by the Minister to represent milk processors;
- (f) 1 part-time member shall be a person—
- (i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and
 - (ii) appointed by the Minister to represent dairymen; and
- (g) 1 part-time member shall be an officer of the Department appointed by the Minister.

(2) Elections for the purpose of constituting and re-constituting the panels referred to in subclause (1) (b) (i), (d) (i), (e) (i) and (f) (i) of this clause shall be conducted in the manner, and at the times or during the periods, prescribed in respect of them.

(3) Where a registered dairyman or registered dairy produce merchant holds 2 or more certificates of registration, the holding of each of which qualifies him to vote in an election to be conducted pursuant to regulations made under subclause (2) of this clause, the dairyman or dairy produce merchant, as the case may be, shall be entitled to cast a separate vote in that election in respect of each of those certificates of registration.

(4) Where—

- (a) the Minister is required by this Act to nominate or appoint a person required by subclause (1) (b) (i), (d) (i), (e) (i) or (f) (i) of this clause to be selected by the Minister from a panel of 3 persons to hold office as a member; and

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- (b) the panel from which that person would, in the absence of this subclause, be required to be nominated or appointed, as the case may be, is not constituted or re-constituted as required by the regulations,

the Minister may nominate or appoint, as the case may require, such person as he thinks fit for or to the vacant office and a person nominated or appointed under this subclause shall be deemed to have been so selected.

2. The members referred to in clause 1 (1) (a) and (b) shall, in and by the instruments by which they are appointed, or by other instruments executed by the Governor, be respectively appointed Chairman and Deputy Chairman of the Authority. Chairman and Deputy Chairman.

3. (1) Subject to this Schedule, the term of office of a member shall be such term— Term of office.

- (a) in the case of a full-time member—not exceeding 5 years; and
(b) in the case of a part-time member—not exceeding 3 years,

as is specified in the instrument of his appointment.

(2) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for reappointment from time to time and any such reappointment shall be for such term, not exceeding the term prescribed by subclause (1) of this clause in respect of the office to which he is reappointed, as is specified in the instrument of his reappointment.

4. (1) Subject to subclause (2) of this clause and clause 6, where a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f), otherwise than by reason of the expiration of that member's term of office, a person shall be elected, as prescribed, to fill the vacant office and the person elected— Casual vacancies.

- (a) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and
(b) shall be appointed to fill that office during the unexpired term of that office.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(2) Subject to clause 6, where—

- (a) a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f); and
- (b) that vacancy so occurs within the final 6 months of the term of office of the member,

such person as the Minister thinks fit may be appointed to the vacant office by the Governor or the Minister, as the case may require, and that person—

- (c) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and
- (d) shall hold office during the unexpired term of that vacant office.

Disqualifi-
cations.

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

(2) A person who is a member of any firm or a director or officer of any company, society, association or corporation directly or indirectly carrying on the business of or having for its objects the supply, treatment, distribution or sale of milk, dairy products or margarine or who receives any remuneration or fee, or any benefit (otherwise than as a shareholder), from any such firm, company, society, association or corporation shall not be eligible for appointment as a full-time member and is disqualified from holding office as a full-time member.

Appoint-
ments
during
absences,
etc.

6. During the absence or illness of a member the Governor or Minister, as the case may require, may, on such terms and conditions (including terms and conditions as to payment of remuneration, allowances and expenses) as the person making the appointment may determine, appoint a person as a deputy of that member and the person so appointed, while he holds office as a deputy member—

- (a) shall have and may exercise and discharge the powers, authorities, duties and functions of the member of whom he is the deputy; and
- (b) if he is not otherwise a member, shall be deemed to be a member.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

7. (1) During the illness or absence of the Chairman, the Deputy Chairman shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed on the Chairman by or under this Act. Deputy
Chairman.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman, and all acts or things done or omitted by the Deputy Chairman while acting as Chairman shall have the same consequences as if they had been done or omitted by the Chairman.

8. (1) A full-time member shall devote the whole of his time to the duties of his office. Full-time
members.

(2) A full-time member is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

9. A part-time member is entitled to be paid such—

- (a) fees for attending meetings of the Authority; and
- (b) travelling and subsistence allowances,

as the Minister may from time to time determine in respect of him. Part-time
members.

10. (1) A member shall be deemed to have vacated his office if—

- (a) he dies;
 - (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 - (c) he absents himself from duty for a period exceeding 14 consecutive days, where he is a full-time member, or from 3 consecutive meetings of the Authority, where he is a part-time
- Vacation
of office.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

member, except in either case on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless his absence is occasioned by illness or other unavoidable cause;

- (d) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
 - (f) he resigns his office by writing under his hand addressed to the Governor, where he is a full-time member, or to the Minister, where he is a part-time member;
 - (g) he attains the age of 70 years;
 - (h) he is removed from office by the Governor, where he is a full-time member, or by the Minister, where he is a part-time member;
 - (i) being a full-time member, he engages during his term of office in any paid employment outside the duties of his office; or
 - (j) being the part-time member referred to in clause 1 (1) (g), he ceases to be an officer of the Department.
- (2) For any cause which appears to him sufficient—
- (a) the Governor may remove a full-time member from office; and
 - (b) the Minister may remove a part-time member from office.

Effect of
certain
other Acts.

11. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a member and a member shall not, as a member, be subject to that Act during his term of office as a member.

(2) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member of the Authority or from accepting and retaining any remuneration, allowances, expenses or fees payable to him as a part-time member under clause 6 or 9.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

12. (1) Where a person was, immediately before his appointment as a full-time member, an officer of the Public Service and ceases to be a full-time member otherwise than pursuant to clause 11 (1) (paragraph (f) excepted), he shall, if he has not attained the age of 60 years, be appointed to a position in the Public Service not lower in classification or salary than that which he held immediately before his appointment.

Saving of certain rights of full-time members.

(2) Where a full-time member was, immediately before his appointment, an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, he shall retain any rights which have accrued or are accruing to him as such an officer or employee and he shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be such an officer or employee during his service with the Authority, and for the purposes of this subclause his service as such a member shall be deemed to be service for the purposes of that Act and the Public Service Act, 1979.

(3) Where a full-time member contributes to a fund or account as referred to in subclause (2) of this clause, the Authority shall pay to the State Superannuation Board such amounts as would have been payable to that Board if that full-time member had remained an employee within the meaning of the Superannuation Act, 1916, and had continued to be employed by the employer by whom he was employed immediately before his appointment as such a member and as if he were receiving from that employer the same remuneration as is being paid to him under the Statutory and Other Offices Remuneration Act, 1975.

(4) A full-time member shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13. (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Authority.

Procedure at meetings of Authority.

(2) The Minister shall call the first meeting of the Authority in such manner as he thinks fit.

(3) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the other full-time member, shall preside at any meeting of the Authority.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(4) Four members, of whom at least 1 shall be a full-time member, shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(5) The person acting as chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

(7) The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting as soon as practicable after the date on which it was held.

Liability
of
members,
etc.

14. (1) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject the member, or that person, personally to any action, liability, claim or demand whatsoever.

(2) Nothing in subclause (1) of this clause shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which the member authorised or joined in authorising.

Dairy Industry Marketing Authority.

SCHEDULE 3.

Sec. 53.

CONSTITUTION AND PROCEDURE OF PRICING COMMITTEE.

1. (1) Subject to subclause (2) of this clause, the Pricing Committee shall consist of 3 members being the 3 members of the Authority appointed by the Governor. Members of Pricing Committee.

(2) The part-time member of the Authority referred to in clause 1 (1) (g) of Schedule 2 shall, during the absence or illness of any member of the Pricing Committee, be a member of the Pricing Committee, unless a person holds office, pursuant to clause 6 of Schedule 2, as a deputy of that absent or ill member.

2. (1) The procedure for the calling of meetings of the Pricing Committee and for the conduct of business at those meetings shall, subject to this clause, be as determined by the Pricing Committee. Procedure at meetings of Pricing Committee.

(2) The Minister shall call the first meeting of the Pricing Committee in such manner as he thinks fit.

(3) The Chairman of the Authority or, in his absence, the Deputy Chairman of the Authority shall be the chairman of the Pricing Committee and shall preside at any meeting of the Pricing Committee.

(4) The 3 members of the Pricing Committee shall form the quorum for its meetings.

(5) The person acting as chairman at any meeting of the Pricing Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Pricing Committee at which a quorum is present shall be the decision of the Pricing Committee.

Dairy Industry Marketing Authority.

Sec. 107.

SCHEDULE 4.

REPEALS AND AMENDMENT OF ACTS.

PART 1.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1915, No. 45 ..	Dairy Industry Act, 1915 ..	The whole Act.
1932, No. 55 ..	Dairy Industry (Amendment) Act, 1932.	The whole Act.
1937, No. 35 ..	Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 45, 1915.
1938, No. 28 ..	Dairy Industry (Amendment) Act, 1938.	The whole Act.
1940, No. 31 ..	Dairy Industry (Amendment) Act, 1940.	The whole Act.
1950, No. 16 ..	Dairy Industry (Amendment) Act, 1950.	The whole Act.
1951, No. 60 ..	Dairy Industry (Amendment) Act, 1951.	The whole Act.
1955, No. 48 ..	Dairy Industry (Amendment) Act, 1955.	The whole Act.
1960, No. 42 ..	Dairy Industry (Amendment) Act, 1960.	The whole Act.
1962, No. 40 ..	Dairy Industry (Amendment) Act, 1962.	The whole Act.
1970, No. 29 ..	Dairy Industry Authority Act, 1970.	The whole Act.
1970, No. 52 ..	Supreme Court Act, 1970 ..	So much of the Second Schedule as amended Act No. 29, 1970.
1972, No. 41 ..	Supreme Court (Amendment) Act, 1972.	So much of the Second Schedule as relates to Act No. 29, 1970.
1972, No. 63 ..	Health Commission Act, 1972.	So much of the Schedule as amended Act No. 45, 1915, and Act No. 29, 1970.
1973, No. 9 ..	District Court Act, 1973 ..	So much of Schedule 2 as amended Act No. 29, 1970.
1973, No. 23 ..	Dairy Industry (Amendment) Act, 1973.	The whole Act.
1973, No. 61 ..	Dairy Industry Authority (Amendment) Act, 1973.	Section 3.
1975, No. 3 ..	Dairy Industry Authority (Amendment) Act, 1975.	The whole Act.
1975, No. 9 ..	Dairy Industry (Amendment) Act, 1975.	The whole Act.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amended Act No. 29, 1970.
1977, No. 1 ..	Dairy Industry Authority (Amendment) Act, 1977.	The whole Act.

*Dairy Industry Marketing Authority.*SCHEDULE 4—*continued.*PART 1—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1977, No. 16 ..	Dairy Industry (Amendment) Act, 1977.	The whole Act.
1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 29, 1970.
1977, No. 129 ..	Dairy Industry Authority (Further Amendment) Act, 1977.	The whole Act.
1978, No. 67 ..	Metric Conversion Act, 1978	Section 7: so much of Schedule 1 as amended Act No. 45, 1915; Schedule 2.
1979, No. 43 ..	Dairy Industry Authority (Amendment) Act, 1979.	The whole Act.

PART 2.

AMENDMENT OF ACTS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1908, No. 31 ..	Pure Food Act, 1908.	Section 21 (2A)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
1916, No. 28 ..	Superannuation Act, 1916.	Schedule III— Omit "The Dairy Industry Authority of New South Wales in respect of any officer or employee transferred to the Milk Board in pursuance of the Milk Act, 1931, and subsequently transferred to the Dairy Industry Authority of New South Wales in pursuance of the Dairy Industry Authority Act, 1970."

*Dairy Industry Marketing Authority.*SCHEDULE 4—*continued.*PART 2—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1924, No. 50 ..	Metropolitan Water, Sewerage, and Drainage Act, 1924.	Schedule III— Omit "The Dairy Industry Authority of New South Wales—in respect of any officer or employee not otherwise referred to in this Schedule". Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
1938, No. 11 ..	Hunter District Water, Sewerage and Drainage Act, 1938.	Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
1941, No. 55 ..	Agricultural Holdings Act, 1941.	First Schedule, Part III— Omit from item (26) "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
1957, No. 28 ..	Attachment of Wages Limitation Act, 1957.	Schedule— Omit "The Dairy Industry Authority of New South Wales", insert instead "Dairy Industry Marketing Authority".

Sec. 108.

SCHEDULE 5.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. (1) In this Schedule—

Interpretation:
Sch. 5.

"artificial stock breeding service" means the services provided and maintained by the former Authority pursuant to section 18 (1) (f) of the Authority Act for the purposes of the dairy industry and beef industry;

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- “Authority Act” means the Dairy Industry Authority Act, 1970;
- “former Authority” means the Dairy Industry Authority of New South Wales constituted under the Authority Act;
- “Industry Act” means the Dairy Industry Act, 1915;
- “Marketing Authority” means the Authority constituted by this Act;
- “repealed Acts” means the Industry Act and the Authority Act;
- “the commencement” means the commencement of this Act.

(2) Nothing in this Schedule affects the operation of section 8 of the Interpretation Act, 1897, with respect to this Act.

2. A reference in any other Act or in any by-law, regulation, ordinance or any other instrument or document whatever to the Milk Board or the former Authority shall be construed as a reference to the Marketing Authority.

References to Milk Board and former Authority.

3. (1) On the commencement, any—

- (a) proclamation published in the Gazette under section 5 of the Authority Act, being a proclamation in force immediately before the commencement, shall be deemed to be a proclamation under section 5;
- (b) order made under section 7 of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order under section 98;
- (c) direction contained in a notice served, before the commencement, on a dairyman under section 18 (1) (g), (h), (h1) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 37 (1) (b), (c), (d) or (f);
- (d) direction contained in a notice served, before the commencement, on a person (other than a dairyman) under section 18 (1) (g), (h), (h1), (i), (j), (k) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 10 (1) (g), (a), (b), (c), (d), (e) or (f);

Saving of certain instruments.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (e) certificate made out before the commencement by the former Authority under section 26 (3) of the Authority Act shall be deemed to be made out by the Marketing Authority under section 27 (4);
- (f) order made and published in the Gazette under section 28 (4) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette, as the case may be, under section 22 (4);
- (g) certificate of registration issued to a dairyman under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to the dairyman under section 32 (5);
- (h) certificate of registration issued to a milk vendor under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to a dairy produce merchant under section 32 (5);
- (i) instrument specifying a condition to which, pursuant to section 33 of the Authority Act, a certificate of registration referred to in paragraph (g) or (h) was subject immediately before the commencement, shall be deemed to be an instrument specifying a condition to which the certificate is subject pursuant to section 32 (5);
- (j) certificate of registration sent, under section 5 (2) of the Industry Act, to a person in whose name premises were, immediately before the commencement, registered under that Act as a dairy produce factory or store, being a certificate of registration that had not been cancelled before the commencement, shall be deemed to be a certificate of registration issued to that person as a dairy produce merchant under section 32 (5) and the certificate of registration—
 - (i) unless sooner cancelled or surrendered under this Act shall be in force for the period of 2 years that commences with the commencement;
 - (ii) shall be deemed to have specified in it a condition to which it is subject pursuant to section 32 (5) prohibiting the holder of the certificate from treating or storing milk, dairy products or margarine at any place other than those premises; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (iii) where it was, immediately before the commencement, a certificate of registration of premises as a dairy produce factory bearing an endorsement made pursuant to section 5c of the Industry Act as to the purposes for which those premises might be used, shall be deemed to have specified in it a condition to which the certificate is subject pursuant to section 32 (5) prohibiting the holder of the certificate from using those premises for any other purpose;
- (k) order made and published in the Gazette under section 36 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette under section 42 (1);
- (l) order published in the Gazette under section 46 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall—
 - (i) if the order relates to milk of a class prescribed for the purposes of section 55 (7)—be deemed to be an order of the Prices Commission published under section 55 (9) (a); and
 - (ii) if the order relates to any other milk—be deemed to be an order of the Minister published under section 55 (9) (b);
- (m) order published in the Gazette under section 47 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order published in the Gazette under section 56 (1);
- (n) order published in the Gazette under section 47 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be an order published under section 56 (8); or
- (o) certificate issued to a person under section 14 of the Industry Act—
 - (i) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully test milk or cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (c);

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (ii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (b); or
- (iii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade milk supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (a).

(2) In an instrument which was made under either of the repealed Acts and which, by reason of the operation of subclause (1) of this clause, continues to have effect after the commencement—

- (a) a reference to the Authority Act or the Industry Act shall be construed as a reference to this Act; and
- (b) a reference to a provision of either of those Acts shall be construed as a reference to the corresponding provision of this Act.

Saving of
other
matters.

4. On the commencement, any—
- (a) scheme prepared or implemented, or any quota allocated, before the commencement by the former Authority pursuant to section 18 (1) (d) of the Authority Act shall be deemed to be a scheme prepared or implemented, or a quota allocated, by the Marketing Authority pursuant to section 9 (1) (g);
 - (b) person appointed as an authorised agent by an instrument in force immediately before the commencement under section 18 (1) (e) of the Authority Act shall be deemed to be a person appointed as an authorised agent by an order under section 19 (1);
 - (c) authority conferred under section 18 (3) of the Authority Act on a person by an authorised agent, being an authority in force immediately before the commencement, shall be deemed to be an authority conferred under section 19 (2);
 - (d) committee established by the former Authority pursuant to section 20A (2) of the Authority Act shall be deemed to have been established pursuant to section 14 (2);

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (e) determination made or purporting to have been made under section 26 (2) of the Authority Act by the former Authority or any officer of the former Authority authorised for the purposes of that subsection shall be deemed to have been made under section 27 (2);
- (f) investment made by the former Authority under section 67 of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 72;
- (g) advance made to the former Authority under section 68 (1) or (2) of the Authority Act shall be deemed to be an advance made to the Marketing Authority under section 73 (1) or (2);
- (h) borrowing by the former Authority under section 69 of the Authority Act shall be deemed to be borrowing by the Marketing Authority under section 74;
- (i) fund established by the former Authority under section 70 of the Authority Act shall be deemed to be a fund established by the Marketing Authority under section 75;
- (j) investment made by the former Authority under section 70 (3) of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 75 (3); or
- (k) authorisation granted a person pursuant to section 83 (1) of the Authority Act by the former Authority, being an authorisation in force immediately before the commencement, shall be deemed to be an authorisation granted that person by the Marketing Authority under section 93 (1);

5. (1) A regulation made under either of the repealed Acts and in force immediately before the commencement shall, on the commencement, be deemed to be made under this Act if the regulation could have been made under this Act, had this Act been in force when it was made, whether or not it could only have been so made if a reference in the regulation to a provision of either of the repealed Acts were a reference to the corresponding provision of this Act. Saving of certain regulations.

(2) A reference in a regulation continued in force after the commencement by the operation of subclause (1) of this clause to a provision of either of the repealed Acts shall be construed as a reference to the corresponding provision of this Act.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Transfer
of assets,
liabilities,
etc., of
the former
Authority.

6. (1) On and from the commencement—
- (a) except as provided in clause 7, all real and personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority shall vest in and belong to the Marketing Authority;
 - (b) all money and liquidated or unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by the former Authority shall be money and liquidated or unliquidated claims payable to or recoverable by the Marketing Authority;
 - (c) all suits, actions and proceedings pending immediately before the commencement at the suit of the former Authority shall be respectively suits, actions and proceedings pending at the suit of the Marketing Authority and all suits, actions and proceedings so pending at the suit of any person against the former Authority shall be suits, actions and proceedings pending at the suit of that person against the Marketing Authority;
 - (d) subject to subclauses (3) and (4) of this clause, all contracts, agreements and undertakings entered into with, and all securities lawfully given to or by, the former Authority and in force immediately before the commencement shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Marketing Authority;
 - (e) the Marketing Authority may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of suits, actions and proceedings so referred to as the former Authority might have done but for the repeals and amendments effected by this Act;
 - (f) the Marketing Authority may enforce and realise any security or charge existing immediately before the commencement in favour of the former Authority and may exercise any powers thereby conferred on the former Authority, as if the security or charge were a security or charge in favour of the Marketing Authority;

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before the commencement, was or were due or payable by, or recoverable against, the former Authority shall be debts due and money payable by and claims recoverable against the Marketing Authority; and
- (h) all liquidated or unliquidated claims for which the former Authority would, but for the repeals and amendments effected by this Act, have been liable shall be liquidated or unliquidated claims for which the Marketing Authority shall be liable.

(2) No attornment to the Marketing Authority by a lessee from the former Authority shall be required.

(3) A reference in subclause (1) (d) of this clause to contracts, agreements and undertakings entered into with the former Authority does not include a reference to any contract, agreement or undertaking so entered into pursuant to section 12 (2), 50 or 63 of the Authority Act.

(4) All contracts, agreements and undertakings entered into with the former Authority with respect to the artificial stock breeding service, being contracts, agreements or undertakings that were in force immediately before the commencement, shall be deemed to be contracts, agreements and undertakings entered into with the Minister.

7. (1) The estate or interest, immediately before the commencement, of the former Authority in such of the land situated in the Parish of Coolangatta and County of Camden as is comprised in Certificates of Title Volume 5384 Folio 198 and Volume 13737 Folio 75 shall, on the commencement, vest in Her Majesty. Vesting of certain land, etc., in the Crown.

(2) All personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority for, or in connection with, the artificial stock breeding service shall, on the commencement, vest in and belong to Her Majesty.

Dairy Industry Marketing Authority.

 SCHEDULE 5—*continued.*

 SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Transfer
of officers
and
employees
of former
Authority.

8. (1) On the commencement, any person who was, immediately before the commencement—

- (a) an officer of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his appointment under section 14 (1) of that Act shall become and be an officer; or
- (b) an employee of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his employment under section 14 (3) of that Act shall become and be a temporary employee,

employed under Part IV of the Public Service Act, 1979, and, except as otherwise provided in clause 9, shall be subject to the Public Service Act, 1979.

(2) Subclause (1) of this clause does not apply to a person who, immediately before the commencement, was employed under section 14 (3) of the Authority Act for the purpose of, or for purposes connected with, the provision of services to a committee established by the former Authority and known as the "Dairy Promotion Council".

(3) A person to whom subclause (1) of this clause applies shall—

- (a) if he was, immediately before the commencement, employed by the former Authority solely in connection with the artificial stock breeding service, be deemed to have been appointed under the Public Service Act, 1979, as an officer of the Department; and
- (b) if he was, immediately before the commencement, otherwise employed by the former Authority, be deemed to have been appointed under that Act as an officer of the Marketing Authority pursuant to section 16 (1).

Saving of
certain
rights.

9. (1) A person to whom clause 8 (1) applies shall—

- (a) be paid salary or wages at a rate not less than the rate which was payable to him immediately before the commencement, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until that salary or those wages is or are varied under the Public Service Act, 1979, or by an award or industrial agreement made or filed under the Industrial Arbitration Act, 1940;

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) be entitled to any annual, deferred, recreation and sick leave accrued to him as an officer or employee of the former Authority but not taken at the commencement;
- (c) have and enjoy rights and privileges with regard to extended leave not less favourable than those relating to long service or extended leave applicable to him as such an officer or employee immediately before the commencement and, for the purpose of his entitlement under this paragraph, his continuous service with the former Authority, immediately before the commencement, shall be deemed to be service in the Public Service; and
- (d) retain any rights that, immediately before the commencement, had accrued or were accruing to him under the Superannuation Act, 1916, and, if he was, immediately before the commencement, a contributor within the meaning of that Act shall continue to be a contributor within the meaning of that Act.

(2) Except as otherwise provided by this clause, where any condition of employment of any person to whom clause 8 (1) applies was regulated, immediately before the commencement, by any award or industrial agreement made or filed under the Industrial Arbitration Act, 1940, and applicable to him as an officer or employee of the former Authority, being a condition which does not conflict with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, the condition shall continue to apply to him until it is regulated by or under the Public Service Act, 1979, or by an award or industrial agreement so made or filed.

(3) Where any dispute arises as to whether an award or industrial agreement regulating any such condition as is referred to in subclause (2) of this clause conflicts with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, that Act or those regulations, as the case may be, shall prevail.

(4) A person to whom clause 8 (1) applies shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Dairy Industry Marketing Authority.

 SCHEDULE 5—*continued.*

 SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Pending
appeals
of Crown
Employees
Appeal
Board.

10. (1) Where, immediately before the commencement, an appeal is pending before, or could have been made to, the Crown Employees Appeal Board by a person who on the commencement becomes an officer under the Public Service Act, 1979, by the operation of clause 8 (1), that appeal may—

- (a) where it was pending, be continued or completed; or
- (b) where it is made after the commencement, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board.

(2) The determination of the Crown Employees Appeal Board referred to in subclause (1) of this clause shall be given effect to by the Public Service Board.

Extra-
ordinary
accounting
period.

11. Notwithstanding section 70 (8), where the commencement occurs after 31st March in any year, a reference in section 70 to the financial year of the Marketing Authority shall, in relation to the first statement of accounts of the Marketing Authority, be construed as a reference to the period from and including the commencement up to and including 30th June secondly succeeding the commencement.

First
annual
report.

12. Where the commencement occurs after 31st March in any year, the Marketing Authority shall be deemed to have complied with the duty imposed upon it by section 97 (1) with respect to the preparation and furnishing of a report upon its operations and activities as soon as practicable after 30th June next succeeding the commencement if it includes in the report required by that subsection to be prepared and furnished by it as soon as practicable after 30th June secondly succeeding the commencement a report upon its operations and activities during the period from and including the commencement up to and including 30th June next succeeding the commencement.

Transfer
of certain
records.

13. On the commencement—

- (a) the Marketing Authority shall cause such of the records maintained by the former Authority as relate to the artificial stock breeding service to be forwarded to the Director-General of the Department; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) the Director-General of the Department shall cause such of the records maintained by the Department as relate—
- (i) to the registration immediately before the commencement, of premises under the Industry Act; and
 - (ii) to certificates issued for the purposes of section 14 of the Industry Act, being certificates in force immediately before the commencement,
- to be forwarded to the Marketing Authority.

14. (1) The Minister may, by instrument in writing, extend the term of office as a member of the Dairy Industry Authority of New South Wales of a person holding office as such a member immediately before the date of assent to this Act by reason of his having been elected at an election held for the purposes of section 8 (2) (d) of the Dairy Industry Authority Act, 1970. Power to extend certain terms of office.

(2) Notwithstanding section 8 (4) of the Dairy Industry Authority Act, 1970, a person whose term of office is extended by an instrument executed under subclause (1) of this clause shall, subject to that Act, continue to hold his office as a member of the Dairy Industry Authority of New South Wales until, but excluding—

- (a) the day, occurring not later than 6 months after the date of assent to this Act, specified in the instrument as the last day up to which his term is extended; or
- (b) the day appointed and notified pursuant to section 2 (2) of this Act,

whichever first occurs.

15. (1) For the purposes of constituting, before the commencement, the panels referred to in clause 1 (1) of Schedule 2— Voting at elections before commencement.

- (a) a registered dairyman, within the meaning of the Authority Act, shall be eligible to vote at an election held pursuant to clause 1 (1) (b) (i) and (f) (i) of that Schedule;
- (b) a registered milk vendor, within the meaning of the Authority Act, who is, by the certificate of registration held by him under that Act, authorised to sell milk from a vehicle, shall be eligible to vote at an election held pursuant to clause 1 (1) (d) (i) of that Schedule; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (c) a person (not being a registered dairyman or registered milk vendor, within the meaning of the Authority Act) holding a certificate of registration that is in force after having been sent to him under section 5 (2) of the Industry Act by reason of his being a person in whose name premises were registered under that Act as a dairy produce factory (other than a person holding any such certificate of registration bearing an endorsement under section 5c of that Act specifying that the premises are to be used only for the manufacture of margarine, within the meaning of this Act), shall be eligible to vote at an election held pursuant to clause 1 (1) (e) (i) of that Schedule.

(2) Where a person who is eligible to vote at an election by reason of subclause (1) (a), (b) or (c) of this clause holds 2 or more certificates of registration under either of the repealed Acts, the holding of each of which qualifies him to vote at the election, he shall be entitled to cast a separate vote in that election in respect of each of those certificates of registration.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 24th December, 1979.*

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.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, November, 1979.*

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. , 1979.

An Act to constitute the Dairy Industry Marketing Authority and to define its powers, authorities, duties and functions; to provide for the regulation of the supply and treatment of milk and of the production of milk, dairy products and margarine; to enable the fixing of prices for milk and certain dairy products; to repeal the Dairy Industry Act, 1915, and the Dairy Industry Authority Act, 1970, and to repeal or amend certain other enactments; and for other purposes.

See also Stamp Duties (Dairy Industry Marketing Authority) Amendment Bill, 1979; Statutory and Other Offices Remuneration (Dairy Industry Marketing Authority) Amendment Bill, 1979.

Dairy Industry Marketing Authority.

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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dairy Industry Marketing Authority Act, 1979". Short title.

2. (1) This section, section 1, the provisions of this Act Commence-
10 relating to the appointment of members of the Dairy Industry ment.
Marketing Authority to be constituted under this Act and the
election of persons to the panels to be constituted in connection
therewith, section 108, in its application to clause 14 of Schedule
5, and that clause shall commence on the date of assent to this Act.

15 (2) Except as provided in subsection (1), this Act shall
commence on such day as may be appointed by the Governor in
respect thereof and as may be notified by proclamation published
in the Gazette.

3. This Act is divided as follows :—

Arrange-
ment.

20 **PART I.—PRELIMINARY—ss. 1–6.**

**PART II.—THE DAIRY INDUSTRY MARKETING AUTHORITY—
ss. 7–20.**

DIVISION 1.—Constitution of the Authority—s. 7.

25 **DIVISION 2.—Responsibilities and Powers, etc., of the
Authority—ss. 8–15.**

DIVISION 3.—Administrative Matters—ss. 16–20.

Dairy Industry Marketing Authority.

- PART III.—REGULATION OF THE MILK SUPPLY—ss. 21–31.
- DIVISION 1.—*Vesting of Milk in the Authority*—ss. 21–24.
- DIVISION 2.—*Delivery of Milk to the Authority*—ss. 25–27.
- DIVISION 3.—*Payment for Vested Milk*—ss. 28–31.
- 5 PART IV.—REGULATION OF THE PRODUCTION OF MILK,
DAIRY PRODUCTS AND MARGARINE—ss. 32–52.
- DIVISION 1.—*Regulation of Dairymen and Dairy Produce
Merchants*—ss. 32–35.
- DIVISION 2.—*Regulation of Dairy Premises*—ss. 36–40.
- 10 DIVISION 3.—*Regulation of Quality of Milk and Dairy
Products*—ss. 41–44.
- DIVISION 4.—*Grading of Milk, Cream and Dairy Products*
ss. 45–52.
- PART V.—FIXING OF CERTAIN DAIRY INDUSTRY PRICES—
15 ss. 53–60.
- DIVISION 1.—*The Dairy Industry Pricing Committee*—ss.
53, 54.
- DIVISION 2.—*Prices of Milk and Declared Dairy Products*
—ss. 55, 56.
- 20 DIVISION 3.—*Miscellaneous*—ss. 57–60.
- PART VI.—ACQUISITION OF PROPERTY BY THE AUTHORITY
—ss. 61–69.
- DIVISION 1.—*Acquisition of Land*—ss. 61, 62.
- DIVISION 2.—*Acquisition of Undertakings*—ss. 63–69.
- 25 PART VII.—FINANCE—ss. 70–80.
- DIVISION 1.—*Accounts and Audits*—ss. 70, 71.
- DIVISION 2.—*Investment and Borrowing*—ss. 72–80.

Dairy Industry Marketing Authority.

PART VIII.—SUPPLEMENTARY—ss. 81–108.

DIVISION 1.—*Additional Powers of Authorised Officers—*
ss. 81–84.

5 DIVISION 2.—*Investigation of Complaints by Dairymen—*
ss. 85–91.

DIVISION 3.—*Proceedings for Offences—*ss. 92–96.

DIVISION 4.—*Miscellaneous—*ss. 97–108.

SCHEDULE 1.—DEFINITION OF MILK.

10 SCHEDULE 2.—CONSTITUTION AND PROCEDURE OF THE
AUTHORITY.

SCHEDULE 3.—CONSTITUTION AND PROCEDURE OF PRICING
COMMITTEE.

SCHEDULE 4.—REPEALS AND AMENDMENT OF ACTS.

SCHEDULE 5.—SAVINGS AND TRANSITIONAL PROVISIONS.

15 4. (1) In this Act, except in so far as the context or subject-
matter otherwise indicates or requires— Interpre-
tation.

“Authority” means the Dairy Industry Marketing Authority
constituted under section 7 (1);

20 “carrier” means any person (other than a dairyman or dairy
produce merchant who carries milk as a dairyman or as
part of his business as a dairy produce merchant) who
carries on business as a carrier of milk;

“certificate of registration” means a certificate of registration
issued under section 32 (5);

25 “Chairman” means Chairman of the Authority;

“conveyance” includes vessel and aircraft;

“cream” is that portion of milk in which, either through rest
or mechanical separation, the greater part of the milk fat
content of the milk has become concentrated;

Dairy Industry Marketing Authority.

“dairy premises” means any land or premises used for or in connection with the stalling, grazing, feeding or milking of cattle for the purpose of producing milk which is supplied or to be supplied for profit or sale;

5 “dairy produce factory” means any building or place at or in which any dairy product or margarine is produced or at or in which any dairy product or margarine is processed after its production;

“dairy produce merchant” means any person—

- 10 (a) who is the occupier of a milk store, dairy produce factory or dairy produce store;
- (b) who, otherwise than as an employee or a carrier, receives or accepts milk to be supplied to another person; or
- 15 (c) who sells milk to another person;

“dairy produce store” means any building or place at or in which any dairy product or margarine is stored, whether in a cold chamber or otherwise, but does not include premises used for the sale by retail of any dairy product or margarine;

20

“dairy product” means any food, not being milk, in the production of which—

- (a) milk is used; or
- (b) any substance produced from milk is used;

25 “dairyman” means the occupier of dairy premises;

“Deputy Chairman” means Deputy Chairman of the Authority;

“food” has the meaning ascribed thereto in section 4 (1) of the Pure Food Act, 1908;

30 “full-time member” means a member appointed by the Governor pursuant to section 7 (2);

“grade”, in relation to milk, cream or a dairy product, means the prescribed grade to which the milk, cream or dairy product, as the case may be, belongs;

28

Dairy Industry Marketing Authority.

“margarine” means any food that—

- 5 (a) is a solid or semi-solid emulsion containing a mixture of water and an edible fat, water and an edible oil or water and an edible fat and an edible oil;
- (b) is made in imitation or semblance of butter; and
- (c) has a fat content none of which is derived from milk;

“member” means member of the Authority;

10 “milk” includes—

- (a) any liquid; and
- (b) any liquid of a class,

for the time being described in Schedule 1;

“milk fat” means the pure fat of milk;

15 “milk store” means any building or place at or in which milk is treated or stored, and includes any building and place at or from which milk is supplied, but does not include dairy premises;

20 “officer of the Authority” means any person employed pursuant to section 16 who is not an officer or temporary employee of the Department;

“package” includes anything in or by which a substance or an article is cased, covered, enclosed, contained or packed;

25 “part-time member” means a member appointed by the Minister pursuant to section 7 (2);

“Prices Commission” means the Prices Commission constituted under the Prices Regulation Act, 1948;

30 “Pricing Committee” means the Dairy Industry Pricing Committee constituted under section 53;

“produce”, in relation to a dairy product or margarine, includes manufacture the dairy product or margarine;

“registered”, in relation to—

- 35 (a) a dairyman, means holding a certificate of registration as a dairyman; or

Dairy Industry Marketing Authority.

(b) a dairy produce merchant, means holding a certificate of registration as a dairy produce merchant;

“regulations” means regulations made under this Act;

5 “secretary” means secretary of the Authority or the person for the time being acting as the secretary of the Authority;

10 “sell” means sell by wholesale or by retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale;

“stored” includes deposited;

“the Department” means the Department of Agriculture;

15 “treatment”, in relation to milk, includes the examination, cleansing, pasteurisation, processing by means of an ultra heat treatment method, modification, homogenisation, separation, sterilisation, alteration or manufacture into another form of milk or into a dairy product,
20 packaging, testing, analysing, grading, cooling, refrigerating, bottling and packing of the milk.

(2) A reference in this Act to the commencement of this Act is a reference to the day appointed and notified under section 2 (2).

25 (3) For the purposes of this Act—

(a) a reference to milk supplied for human consumption, as milk, or for use by humans, as milk, includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for human
30 consumption, as milk, or for use by humans, as milk; and

Dairy Industry Marketing Authority.

(b) a reference to milk supplied for use in the production of dairy products includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for use in the production of dairy products.

5

5. (1) The Governor may from time to time, by proclamation published in the Gazette, amend Schedule 1 by adding thereto or excluding therefrom the description of any liquid, or any class of liquids, specified in the proclamation.

Amendment
of Schedule
1.
cf. Act No.
29, 1970,
s. 5.

10 (2) Any proclamation made under this section may be amended or revoked by a subsequent proclamation.

(3) A proclamation made under this section shall—

(a) take effect on and from the date of publication of the proclamation or a later date specified in the proclamation; and

15

(b) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(4) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a proclamation under this section has been laid before it, disallowing the proclamation or any part thereof, the proclamation or part thereupon ceases to have effect.

20

(5) For the purposes of subsections (3) and (4), sitting days shall be counted, whether or not they occur during the same session.

25

6. Unless otherwise in this Act expressly provided, this Act shall not affect any provision of the Public Health Act, 1902, the Pure Food Act, 1908, the Factories, Shops and Industries Act, 1962, the Weights and Measures Act, 1915, the Local Government Act, 1919, or the Stock Diseases Act, 1923, or any rules, regulations, ordinances or by-laws made under any of those Acts, or take away powers vested in any person or body by any of those Acts or by any rules, regulations, ordinances or by-laws made thereunder.

Saving of
certain
Acts, etc.
cf. Act No.
29, 1970,
s. 6.

30

Dairy Industry Marketing Authority.

PART II.

THE DAIRY INDUSTRY MARKETING AUTHORITY.

DIVISION 1.—*Constitution of the Authority.*

7. (1) There is hereby constituted a corporation under the
5 corporate name of the “Dairy Industry Marketing Authority”
which—

Constitu-
tion of
Authority.
cf. Act No.
29, 1970,
s. 8.

- (a) shall have and may exercise and discharge the powers,
authorities, duties and functions conferred and imposed
upon it by or under this or any other Act;
- 10 (b) shall, for the purposes of any Act, be deemed to be a
statutory body representing the Crown; and
- (c) shall, in the exercise of its powers, authorities, duties
and functions (except when it makes a recommendation
or report to the Minister), be subject to the control and
15 direction of the Minister.

(2) The Authority shall consist of 3 full-time members
appointed by the Governor and 4 part-time members appointed by
the Minister.

(3) Schedule 2 has effect in relation to the constitution and
20 procedure of the Authority.

DIVISION 2.—*Responsibilities and Powers, etc., of the Authority.*

8. The Authority is hereby charged with the regulation and
control of—

Principal
responsi-
bility.
cf. Act No.
59, 1931,
s. 22; Act
No. 29,
1970, s. 17.

- (a) the quality, supply and distribution of milk; and
- 25 (b) the production, quality and storage of dairy products and
margarine,

for the purposes of ensuring the wholesomeness and purity of milk,
dairy products and margarine in the interests of public health.

Dairy Industry Marketing Authority.

9. (1) The Authority may—Powers,
generally.

- 5 (a) establish and maintain laboratories and carry out re-
search and make investigations into matters relating to
milk, dairy products and margarine (including chemical,
physical, bacteriological and economic research and
investigations);
- 10 (b) devise and initiate as far as may be practicable improved
methods of collecting, treating, carrying, storing,
distributing, delivering, supplying and using milk, dairy
products and margarine and of producing dairy products
and margarine;
- 15 (c) devise and initiate as far as may be practicable means to
prevent or eliminate wasteful, unnecessary or unhygienic
agencies, methods, practices, costs or charges in con-
nection with the collection, treatment, carriage, storage,
distribution, delivery, supply, use or sale of milk, dairy
products and margarine and with the production of dairy
products and margarine;
- 20 (d) publish reports, information and advice concerning the
collection, treatment, carriage, storage, distribution,
delivery, supply, preservation, use and sale of milk,
dairy products and margarine and the production of
dairy products and margarine, and by these and other
25 means encourage the consumption of milk, dairy
products and margarine;
- (e) subject to the regulations, establish grades, classes or
descriptions of milk, dairy products and margarine;
- 30 (f) take all such steps as may be reasonably practicable to
ensure that a retail supply of milk shall be available to
any consumers who may require it; and
- 35 (g) prepare and implement a scheme or schemes and, from
time to time, vary, replace or cancel any scheme
prepared or implemented by it, for the purpose of
determining the quantities of milk that may be delivered
to or will be accepted by the Authority or the quantities

cf. Act No.
59, 1931,
ss. 25, 39;
Act No. 29,
1970,
ss. 18, 18B,
20.

Dairy Industry Marketing Authority.

of any such milk for which payment will be made by the Authority at any particular price and, for the purposes of any such scheme, allocate quotas to any person producing milk for delivery to the Authority.

5 (2) The Authority shall, at such times as the Minister may require, report to and confer with the Minister upon all matters referred to in subsection (1), or generally affecting the administration of this Act, and recommend such amendments of the law as to the Authority may seem advisable.

10 (3) Where the Authority cancels or reduces a quota allocated by the Authority to a person in relation to the delivery to and acceptance of milk by the Authority, the Authority may, with the approval of the Minister (as to the giving or refusal of which he has an absolute discretion) pay, from the funds of the
15 Authority, to the person who, in the opinion of the Authority, is the holder of the quota, such amount as, subject to subsection (4), the Minister specifies when giving his approval.

(4) The maximum amount that may be paid under subsection (3) upon cancellation or reduction of a quota is—

- 20 (a) where the quota is cancelled—the product of \$4.7136 multiplied by the number that is the number of litres per week that comprised the quota; or
- (b) where the quota is reduced—the product of \$4.7136
25 multiplied by the number that is the number of litres per week by which the quota is reduced.

10. (1) The Authority may—

- (a) by notice in writing served on any person who has possession of any milk, dairy product or margarine which appears to the Authority to be deleterious to
30 health, unwholesome or impure, direct that person not to supply that milk, dairy product or margarine for

Directions
in the
interests of
health, etc.

Dairy Industry Marketing Authority.

consumption or use and to deal with or dispose of that milk, dairy product or margarine in such manner as may be specified in the direction;

- 5 (b) where an examination, a test or an analysis carried out on milk, a dairy product or margarine in the possession of any person indicates that that milk, dairy product or margarine is deleterious to health, unwholesome or impure or, where the Authority is of the opinion that 10 any such milk, dairy product or margarine is, on its package, falsely or misleadingly described, by notice in writing served on that person, direct that person—
- (i) not to supply that or any other milk, dairy product or margarine for consumption or use until such time as the Authority, in the like 15 manner, withdraws that direction; and
- (ii) to deal with or dispose of that or any other milk, dairy product or margarine that would, but for that notice, have been so supplied in such manner as may be specified in the notice;
- 20 (c) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine to other persons, direct that dairy produce merchant not to sell that milk, dairy product or 25 margarine to other persons or to any class of persons specified in the notice, except during the periods or between the times specified in the notice;
- (d) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or 30 person, specified in the direction, in the course of his business as a carrier;
- (e) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine, direct him not to use or display, in connection with his business as a dairy produce merchant, any 35 advertisement or any description, sign, notice, device or representation in the nature of an advertisement, which

Dairy Industry Marketing Authority.

does not correctly describe or represent the milk, dairy product or margarine sold, or the services offered, by that dairy produce merchant, as the case may be;

- 5 (f) by notice in writing served on any dairyman or dairy produce merchant or other person concerned with the production of any milk, dairy product or margarine or the collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk or any dairy product or margarine, direct him to furnish such information or returns, including periodical information or returns, as is or are specified in the notice; and
- 10
- 15 (g) by notice in writing served on any dairy produce merchant, whether or not he is appointed an agent of the Authority, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality of milk, dairy products or margarine, provided for or prescribed by or under this or any other Act.

20 (2) The Authority may exercise any of its powers under subsection (1) (a), (b) or (f) whether or not the power is exercised in, or the thing in respect of which the power is exercised is in or of, New South Wales.

25 (3) A person on whom a notice is served under subsection (1) and who, without reasonable excuse, neglects or fails to comply with the direction contained in the notice is guilty of an offence against this Act.

11. (1) Where it appears to the Authority—

- 30 (a) that any substance, article, apparatus or other thing used by any dairy produce merchant in testing milk or producing or testing dairy products or margarine is unfit for the purpose for which it is intended to be used;

Directions
to take
remedial
measures.

Dairy Industry Marketing Authority.

- (b) that any substance, article, apparatus or other thing used for or in connection with milk, dairy products or margarine by a dairy produce merchant or carrier is unfit for that use;
- 5 (c) that any storage facility or any conveyance used by a dairy produce merchant or carrier for the purpose of the storage or carriage of milk, dairy products or margarine is unfit for that purpose; or
- 10 (d) that any milk store, dairy produce factory or dairy produce store is unfit for use for or in connection with an activity that a registered dairy produce merchant is authorised by his certificate of registration to carry on there,

the Authority may, by notice in writing served on the dairy produce
15 merchant, carrier or registered dairy produce merchant, as the case may be, direct—

- (e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;
- 20 (f) that substance, article, apparatus or other thing to be replaced or made fit for use for or in connection with milk, those dairy products or margarine;
- (g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk, those dairy
25 products or margarine; or
- (h) that milk store, dairy produce factory or dairy produce store to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the
30 direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on him under subsection (1) is guilty of an offence against this Act.

*Dairy Industry Marketing Authority.***12.** Where the Authority believes on reasonable grounds—Seizure of
contaminated milk,
etc.

- 5 (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence at any milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease; and
- 10 (b) that any milk, dairy product or margarine, if so contaminated, would be unfit for human consumption,

the Authority may seize and destroy any milk, dairy product or margarine found at that milk store, dairy produce factory or dairy produce store at any time before the Authority is satisfied that there
15 is no longer any risk of the milk, dairy product or margarine so found being contaminated by that disease or may, in relation to any such milk, dairy product or margarine, exercise any other power conferred on the Authority by this Act.

13. (1) The Authority may, with the approval of the
20 Governor, exercise any one or more of the following powers, that Trading activities.
is to say :—

- (a) engage in the collection, treatment or wholesale or retail distribution of milk and any dairy product;
- 25 (b) purchase or acquire in accordance with Division 2 of Part VI, or lease or rent, the undertaking or portion of the undertaking of any dairy produce merchant;
- (c) establish and conduct cool stores;
- (d) establish and conduct milk stores, dairy produce factories and dairy produce stores, distribute and sell milk and
30 produce, distribute and sell any dairy product, ice and any other food;
- (e) purchase milk and any dairy product for resale or use.

Dairy Industry Marketing Authority.

(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 or not the power is exercised in, or the thing in respect of which the power is exercised is in or of or produced in, New South Wales.

14. (1) The Authority may, by such means as it thinks fit, promote and encourage the production, supply, use, sale or consumption of milk and dairy products. Promotional activities.

(2) Without limiting the generality of subsection (1), the Authority may, with the approval of the Minister, establish a committee to advise it with respect to any or all of the matters referred to in that subsection.

(3) A committee established under subsection (2) shall consist of such persons as are approved by the Minister and the Authority may, from the funds of the Authority, pay a member of the committee such fees for attending meetings of the committee, and such expenses and allowances, as the Minister from time to time determines in respect of that member.

15. For the purposes of this Act, the Authority may take, without payment, samples of— Taking of samples.

(a) milk, from any dairy premises, milk store or dairy produce factory, or from any conveyance, utensil or container; or

(b) dairy products or margarine or any fat, oil or other substance commonly used in the production of dairy products or margarine, from any milk store, dairy produce factory or dairy produce store, or from any conveyance, utensil or container.

Dairy Industry Marketing Authority.

DIVISION 3.—*Administrative Matters.*

16. (1) Such officers and temporary employees as may be necessary for the administration of this Act may be employed under Part IV of the Public Service Act, 1979.

Employment of officers and employees.

5 (2) Notwithstanding subsection (1), the Authority may employ such casual or temporary employees as it deems necessary and may dismiss any such employees.

(3) Subject to the provisions of any award or industrial agreement made or filed under the Industrial Arbitration Act, 10 1940, that relate to the conditions of employment, including conditions relating to wages or other remuneration, of persons employed by the Authority under subsection (2), the Authority may determine those conditions.

17. (1) For the purposes of exercising and discharging the 15 responsibilities, powers, authorities, duties and functions conferred or imposed on the Authority by or under this Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged with that Department, make use of the services of any of the officers or 20 temporary employees of any Government Department.

Authority may make use of certain employees of the Crown and statutory bodies.

(2) The Authority may, for the like purpose with the approval of any statutory body and the Minister, and on such terms as may be arranged with the statutory body, make use of the services of any of the officers, servants or employees of that 25 statutory body.

18. (1) The Authority may, by instrument in writing under seal, delegate to a member or an officer of the Authority or to any officer or temporary employee of the Public Service employed in the Department the exercise or performance of such of the powers 30 (other than this power of delegation), authorities, duties or functions conferred or imposed on the Authority by or under this Act or any other Act as may be specified in the instrument of delegation.

Power of Authority to delegate. cf. Act No. 59, 1931, s. 22A.

Dairy Industry Marketing Authority.

(2) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation 5 by the member or officer to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions 10 delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Authority may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

15 (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Authority.

20 (6) A certificate or other instrument purporting to be signed by a delegate of the Authority in his capacity as such a delegate shall in all courts be received in evidence as if it were a certificate or other instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be a certificate or other instrument signed by a delegate of the Authority.

25 **19.** (1) The Authority may, by order in writing, appoint any person to be an authorised agent to act as the Authority's agent for the purpose of carrying out, in such circumstances as may be specified in the order, such of the powers, authorities, duties and functions of the Authority as may be so specified. Appointment of authorised agents.

30 (2) Where the Authority appoints an authorised agent under subsection (1) for the purpose of carrying out any powers, authorities, duties or functions of the Authority, those powers, authorities, duties and functions may be carried out by any employee, or agent, of that authorised agent who is authorised to 35 do so by that authorised agent.

Dairy Industry Marketing Authority.

20. (1) In this section, "authorised officer" means—

Powers of
certain
authorised
officers.

(a) an officer of the Authority; or

(b) an officer or a temporary employee of the Department,
appointed by order in writing of the Authority to be an authorised
5 officer for the purposes of this section.

(2) For the purposes of this Act, an authorised officer
may, at any reasonable time—

10 (a) subject to subsection (6), enter and, for as long as is
reasonably necessary for the exercise of his powers under
this section, remain in or on any dairy premises, milk
store, dairy produce factory, dairy produce store, place
or conveyance which is, or which the authorised officer
suspects on reasonable grounds is, being used for or
with respect to—

15 (i) the collection, treatment, carriage, storage,
distribution, delivery, supply, use or sale of milk;
or

20 (ii) the collection, production, treatment, carriage,
storage, distribution, delivery, supply, use or
sale of dairy products or margarine or of any
fat, oil or other substance of any kind commonly
used in the production of dairy products or
margarine,

25 or which is, or which he suspects on reasonable grounds
is, being used for the storage or custody of any accounts,
records, books, documents or any other thing whatsoever
relating to any such milk, dairy products, margarine, fat,
oil or other substance;

30 (b) search and inspect any dairy premises (other than such
part of any dairy premises as is used for the production
of milk), milk store, dairy produce factory, dairy
produce store, place or conveyance and examine any
milk, dairy product or margarine or any fat, oil or other
35 substance of any kind commonly used in the production
of dairy products or margarine, scales, measures, appar-
atus, churns, vats, appliances, containers, utensils,

Dairy Industry Marketing Authority.

accounts, records, books, documents, labels, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;

- 5 (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects on reasonable grounds contain, any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine;
- 10 (d) take copies of, or extracts or notes from, any such accounts, records, books, documents or labels;
- (e) request any person found in or on any milk store, dairy produce factory, dairy produce store, place or conveyance referred to in paragraph (a) or any registered dairy produce merchant—
- 15 (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
- 20 (a) which relate to, or which the authorised officer suspects on reasonable grounds relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in
- 25 the production of dairy products or margarine; and
- (b) which at the time of the request are in the possession or under the control of that person; and
- 30 (ii) to answer any question with respect to—
- (a) any such accounts, records, books, documents, labels or other things whatsoever; or
- 35 (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy

Dairy Industry Marketing Authority.

product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine.

5 (3) Any person who—

(a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;

10 (b) resists or obstructs any authorised officer in the exercise of any such power;

(c) fails to comply with any request by an authorised officer made under subsection (2) (e); or

(d) furnishes to an authorised officer any information which is false or misleading in any material particular,

15 is guilty of an offence against this Act.

(4) A person shall not be guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (2) (e) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable
20 diligence have ascertained the answer to the question.

(5) A person is not excused from answering any question, if required to do so under subsection (2) (e), on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information furnished by him shall not be
25 admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (3).

(6) On applying for admission to any premises which he is empowered by subsection (2) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises
30 written evidence of his appointment as an authorised officer.

Dairy Industry Marketing Authority.

(7) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that portion of any dairy premises, milk store, dairy produce factory, dairy produce store, place or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(8) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

PART III.

REGULATION OF THE MILK SUPPLY.

DIVISION 1.—*Vesting of Milk in the Authority.*

21. (1) Milk—

- 15 (a) supplied for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (b) supplied for use in the production in New South Wales, of dairy products,

All milk supplied for consumption or use to vest in the Authority. cf. Act No. 59, 1931, s. 26.

is absolutely vested in and is the property of the Authority.

20 (2) Milk vested in the Authority by the operation of subsection (1) and accepted by the Authority at a place where the Authority accepts milk is so vested freed from all mortgages, charges, liens, pledges, interests and trusts affecting it, and the rights and interests of every person in that milk are converted into

25 a claim for payment for the quantity of milk so accepted.

Dairy Industry Marketing Authority.

22. (1) Every contract, whether made before or after the commencement of this Act, or provision in any such contract, so far as it relates to milk referred to in section 21 (1), is and shall be deemed to have been void and of no effect as from the date upon which the contract was made, except in so far as the contract relates to milk that has been accepted by the Authority or to the supply, sale or delivery of milk, the supply, sale or delivery of which is not prohibited under section 25 (6), or the contract had been completed before 1st July, 1970.

Avoidance of contracts for sale of milk. cf. Act No. 59, 1931, s. 30.

10 (2) Any provision in a contract, being a provision referred to in subsection (1), shall be deemed to be severable.

(3) Any transaction or contract with respect to milk which is the subject-matter of any contract or provision of a contract declared by this section to be void shall also be void and of no effect, and any money paid pursuant to any such contract or provision or to any such transaction shall be repayable.

(4) The Minister may, by order published in the Gazette, declare that this section does not apply to or in respect of any contract specified in the order and made before 1st July, 1970, and subsections (1) and (3) do not apply to or in respect of any contract specified in an order in force under this subsection.

23. (1) Subject to this section, no proceedings at law or in equity shall be brought against the Authority or any person acting under its authority by any person claiming to be entitled under any bill of sale, mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, or the Co-operation Act, 1923) or other encumbrance over, of or upon any milk delivered by a dairyman to, and accepted by, the Authority, or claiming to be the true owner of any such milk, as against the dairyman who delivered the milk.

Remedy against Authority confined to claim for account. cf. Act No. 59, 1931, s. 31.

(2) Any person who but for subsection (1) would have been entitled to bring any such proceedings may adopt the delivery of the milk to the Authority as a delivery thereof by him to the

Dairy Industry Marketing Authority.

Authority, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law to the contrary, any such person shall not be entitled to make any such claim for an account of the payments due in respect of the milk, or any part of those payments, unless he has given prior notice in writing to the Authority in the form and containing the particulars prescribed of the bill of sale, mortgage, charge, lien or other encumbrance, or the claim of ownership, and then only for such part of that money as has not been paid to any other person at the time of the receipt by the Authority of the notice.

15 24. Notwithstanding section 21 (1)—

Application
of Pure
Food Act,
1908.

(a) all milk produced by a registered dairyman, being milk in his possession or in the possession of some person on his behalf, shall, for the purposes of the Pure Food Act, 1908, be deemed to be in the possession of that dairyman for the sale thereof within the meaning of that Act, and that Act and the regulations made thereunder shall apply accordingly; and

(b) every delivery of milk at a place where the Authority will accept milk shall, for the purposes of the Pure Food Act, 1908, be deemed to be a sale of that milk to the Authority by the dairyman in whose name the milk was delivered, whether or not the milk is accepted wholly or in part by the Authority, and the provisions of that Act and of any regulations made thereunder shall apply accordingly.

Dairy Industry Marketing Authority.

DIVISION 2.—Delivery of Milk to the Authority.

25. (1) A registered dairyman may, subject to the provisions of this Act, deliver to the Authority any milk vested in the Authority under section 21.

Delivery and acceptance of milk. cf. Act No. 59, 1931, s. 27.

5 (2) Nothing in this Act shall be construed as requiring the Authority to accept all or any milk delivered to it by any person.

(3) The Authority may from time to time determine—

- 10 (a) the quantity of milk per week which may be supplied by dairymen to and accepted by the Authority at any place appointed by the Authority at which milk will be accepted;
- (b) the quantity of milk or the number of milkings per week either morning or afternoon which may be delivered by a dairyman to and accepted by the Authority;
- 15 (c) the places at which milk will be accepted by the Authority; and
- (d) the periods during which milk may be so delivered and accepted.

20 (4) Milk delivered to and accepted by the Authority may be disposed of by the Authority to dairy produce merchants or to other persons.

(5) Where any milk is not accepted by the Authority, the person who, but for section 21, would have been the owner of the milk—

- 25 (a) is entitled to dispose of that milk in any manner, and subject to any conditions, specified in an instrument, in writing, authorising him to do so issued to him by the Authority; and
- 30 (b) shall, unless the Authority otherwise determines and notifies him in writing before he disposes of the milk, be deemed to have been authorised to dispose of the milk in any manner, otherwise than by supplying it—

Dairy Industry Marketing Authority.

- (i) for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (ii) for use in the production, in New South Wales, of dairy products.

5 (6) A dairyman who, except as authorised by subsection (5), supplies, sells or delivers milk vested in the Authority under section 21 to a person other than the Authority is guilty of an offence against this Act.

(7) A person—

- 10 (a) who buys or receives any milk knowing that it is supplied, sold or delivered in contravention of subsection (6); or
- (b) who buys by wholesale any milk at a price other than the price notified in respect of that milk by an order in force under section 55 (9),

15 is guilty of an offence against this Act.

(8) All milk delivered at a place where the Authority will accept milk shall be delivered in the name of the registered dairyman on whose dairy premises the milk was produced.

20 **26.** (1) Every person delivering milk to the Authority which is subject to any bill of sale, mortgage, charge, lien or encumbrance or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof (and whether the bill of sale, mortgage, charge, lien, Duty to give notice of encumbrances. cf. Act No. 59, 1931, s. 32.

25 encumbrance or contract was made before or after the commencement of this Act) shall, within 1 month after the making thereof, give to the Authority a notice in writing in the prescribed form of the bill of sale, mortgage, charge, lien, encumbrance or contract.

(2) Any person wilfully guilty of a failure to comply
30 with the provisions of this section is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

27. (1) For the purposes of this Act, and of any regulation or order made, or notice, certificate or other document issued, thereunder, milk shall be deemed not to have been accepted by the Authority except to the extent specified in a determination made under subsection (2).

Determina-
tion of
quantity of
milk
accepted by
the
Authority.

(2) For the purposes of subsection (1)—

- (a) the quantity or quantities of milk, or the quantity or quantities of milk of any grade, class or description, that is or are accepted by the Authority from any person specified in the determination during any period so specified, at any time so specified or at any place so specified;
- (b) the purpose or purposes for which a quantity or quantities of milk specified in the determination as having been accepted by the Authority is or are or was or were used or to be used; or
- (c) the conditions under which any quantity of milk specified in the determination as having been accepted by the Authority was thereafter collected, treated, carried, stored, distributed, delivered or supplied,

is or are as the case may require—

- (d) such quantity or quantities, in respect of that person, period, time or place or that grade, class or description;
- (e) such purpose or purposes; or
- (f) such conditions,

as may be determined by the Authority or by any officer of the Authority authorised by it for the purposes of this subsection.

(3) Any such determination may be made at any time after the expiration of the period or after the time referred to in subsection (2) (a), whether or not the milk in respect of which the determination is made is milk specified in the determination as having been accepted by the Authority before or after the commencement of this Act.

Dairy Industry Marketing Authority.

(4) In any legal proceeding by or against the Authority, the Crown, the Government of New South Wales or any nominal defendant appointed under the Claims Against the Government and Crown Suits Act, 1912, a certificate by the Authority—

5 (a) to the effect that—

(i) no milk;

(ii) no milk of a specified grade, class or description;

(iii) a quantity of milk; or

10 (iv) a quantity of milk of a specified grade, class or description,

was, during a specified period or at a specified time, accepted by the Authority from a specified person at a specified place or stating the purpose or purposes for which no milk or a quantity of milk was so accepted;
15 or

(b) as to the conditions under which any quantity of milk accepted by the Authority was thereafter collected, treated, carried, stored, distributed, delivered or supplied,

shall be conclusive evidence of the matters specified therein and of
20 the fact that the place so specified was a place at which the Authority would, during that period, accept milk and any such certificate shall not be questioned, reviewed or examinable in any court.

(5) A determination referred to in subsection (2) made
25 in relation to any milk, or a certificate under subsection (4) embodying any matters in respect of which any such determination has been made, shall have effect whether or not that milk was of any grade, class or description specified in the determination or certificate and whether or not any quantity or conditions under
30 which that milk was collected, treated, carried, stored, distributed, delivered or supplied or any purpose for which that milk was used was or were as specified in the determination or certificate.

Dairy Industry Marketing Authority.

(6) No proceedings shall be taken in any court in any circumstances in relation to any act or thing done or omitted to be done pursuant or purportedly pursuant to this section, whether in relation to the making of a determination under subsection (2) 5 by the Authority or an officer of the Authority or to the purported making of any such determination, or otherwise.

(7) Notwithstanding any other provision of this Act, the Authority or an officer of the Authority authorised by it for the purposes of subsection (2) may, in the exercise of its or his powers 10 under that subsection, make a determination specifying a purpose or purposes for which a quantity or quantities of milk specified in the determination as having been accepted by the Authority is or was used or to be used notwithstanding that the purpose or purposes so specified is or are different from the purpose or purposes for 15 which such milk is or was intended to be used or is or was actually used and any such determination shall not be rendered invalid by reason thereof.

DIVISION 3.—*Payment for Vested Milk.*

20 **28.** (1) The Authority shall, out of the proceeds of milk Payments to disposed of by the Authority under this Act, make provision for— dairymen.

(a) expenditure incurred in the treatment, carriage, distribution and sale of the milk, the costs, charges and expenses incurred by the Authority, the Pricing Committee and the Department in the administration of this Act, other 25 than Division 2 of Part IV, and any amounts necessary to repay advances made to the Authority; and

(b) a sinking fund in respect of any loan raised by the Authority, and interest on any such advance or loan,

and, subject to this Act, shall, in accordance with subsection (2), make payments to each dairyman in respect of the milk accepted 30 from him.

(2) The Authority shall, at such times as it thinks fit, pay to each dairyman in respect of milk delivered by him to, and accepted by, the Authority—

Dairy Industry Marketing Authority.

5 (a) where that milk was accepted for human consumption, as milk, or for use by humans, as milk, an amount calculated at the rate of the minimum price notified in respect of that milk by an order in force under section 55 (9); and

(b) where that milk was accepted by the Authority for use in the production, in New South Wales, of dairy products, an amount calculated at the rate of the minimum price notified by an order in force under section 55 (9)—

10 (i) in respect of milk supplied for that use; or

(ii) in respect of the milk fat content of milk supplied for that use,

15 whichever price is applicable or where either of those prices is applicable at the rate of either of those prices as the Authority thinks fit.

(3) Where milk produced under a share-farming or partnership agreement is delivered to and accepted by the Authority, the Authority may in its discretion make payment to each of the parties to the agreement in accordance with their 20 interests in the milk delivered.

25 **29.** The Authority may make or arrange for the making of advances on account of milk delivered to the Authority, and any such advances and any payment made on account of any such milk may be made at such time or times, on such terms and conditions and in such manner as the Authority may think fit. Advances by Authority. cf. Act No. 59, 1931, s. 29.

30. Where the Authority in good faith and without negligence has made any payment— Authority not liable for payments made in good faith. cf. Act No. 59, 1931, s. 33.

30 (a) to a dairyman delivering or causing to be delivered any milk to the Authority or any person acting under its authority;

(b) to any person entitled or claiming to be entitled through such a dairyman; or

Dairy Industry Marketing Authority.

(c) to any person on the order of such a dairyman or of a person referred to in paragraph (b),

the Authority shall not be answerable to any other person in respect of that payment for the milk or any part thereof, or in any action or other proceedings, claim or demand whatsoever for damages or otherwise.

31. (1) If, before receiving notice of claim to any payment for milk vested in the Authority or to the chose in action or any part thereof the subject-matter of any such payment, the Authority has in good faith and without negligence made that payment, in whole or in part, in accordance with the provisions of this Division, the Authority shall not, to the extent to which it has made that payment, incur any liability to the true owner of the milk or chose in action or any part thereof or to any person claiming through, under or in trust for him.

Authority protected in certain cases. cf. Act No. 59, 1931, s. 34.

(2) This section does not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to the milk or chose in action the subject-matter or part of the subject-matter of any claim for payment.

(3) In any proceedings taken in any court by any such dairyman, transferee or party in respect of any such milk or chose in action or part, the Authority may plead this section as a defence to the proceedings.

Dairy Industry Marketing Authority.

PART IV.

REGULATION OF THE PRODUCTION OF MILK, DAIRY PRODUCTS
AND MARGARINE.

5 DIVISION 1.—*Registration of Dairymen and Dairy Produce Merchants.*

32. (1) A dairyman who is not the holder of a certificate of registration as a dairyman is guilty of an offence against this Act.

Regis-
tration of
dairymen
and dairy
produce
merchants.
cf. Act No.
59, 1931,
s. 36.

(2) A dairy produce merchant—

10 (a) who is not the holder of a certificate of registration as a dairy produce merchant; or

(b) who, being the holder of a certificate of registration as a dairy produce merchant, carries on any activities relating to the production, treatment, storage, distribution, supply or sale of milk, dairy products or margarine other than activities which that certificate of registration authorises him to carry on,

15 is guilty of an offence against this Act.

(3) Except to the extent that any condition to which the certificate of registration is for the time being subject otherwise provides, a certificate of registration as a dairy produce merchant issued by the Authority authorises the holder to carry on only such activities as a dairy produce merchant as are specified in the certificate of registration.

25 (4) An application for a certificate of registration as a dairyman or dairy produce merchant shall—

(a) be made in or to the effect of the prescribed form; and

(b) be accompanied by the prescribed fee for making the application and for issuing the certificate of registration if the application is approved.

30

Dairy Industry Marketing Authority.

(5) The Authority may approve the application subject to such conditions as it thinks fit or refuse the application and, where it approves the application, shall issue to the applicant a certificate of registration as a dairyman or dairy produce merchant, 5 as the case may require.

(6) A certificate of registration shall, unless sooner cancelled or surrendered, be in force until a day specified in the certificate that is not less than 1 year or more than 2 years after the date of issue of the certificate by the Authority which date shall 10 also be specified in the certificate.

(7) Any conditions to which a certificate of registration is subject shall be specified in, or in a notice attached to, the certificate of registration when it is issued by the Authority and may include—

- 15 (a) conditions as to the grade, class or description of milk, dairy products or margarine which the holder of the certificate is authorised to produce, treat, store, distribute, supply or sell;
- 20 (b) conditions prohibiting the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area or in a manner specified in the certificate;
- 25 (c) conditions requiring the holder of the certificate to subject milk, dairy products or margarine produced, treated, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;
- 30 (d) conditions requiring the holder of the certificate to permit the Authority or any authorised officer within the meaning of section 20 or Division 2 of Part IV to exercise, in relation to that holder's activities as a dairyman or dairy produce merchant, any of the powers that the Authority or such an officer may exercise under Division 2 of Part II, Division 2 of Part IV or Division 1 of Part VIII; and
- 35

Dairy Industry Marketing Authority.

(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.

5 (8) The Authority may by notice in writing served on the holder of a certificate of registration vary the conditions to which the certificate is subject for the time being by altering or revoking any of those conditions or may, in like manner, impose conditions or additional conditions to which the certificate is subject.

10 (9) The holder of a certificate of registration who fails to comply with any condition to which the certificate is for the time being subject is guilty of an offence against this Act.

33. (1) The Authority may refuse to issue a certificate of registration to, or may cancel the certificate of registration issued to, any person—

Authority may refuse to issue certificate, etc.

15 (a) if he has been convicted of 2 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, dairy products or margarine;

20 (b) if, in the opinion of the Authority, he is not a fit and proper person to hold such a certificate;

25 (c) if, in the opinion of the Authority, any dairy premises, milk store, dairy produce factory, dairy produce store, conveyance or equipment occupied or used by him as a dairyman or dairy produce merchant are or is unsuitable;

(d) if—

30 (i) the certificate of registration is subject to a condition which prohibits the person from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and

Dairy Industry Marketing Authority.

- (ii) in the opinion of the Authority, the person has ceased to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area;
- 5 (e) if he does not have any qualification that he is required by the regulations to have; or
- (f) if, in the opinion of the Authority, it is necessary or desirable, in the public interest or to enable the Authority to effectively carry out or give effect to any of the provisions of this Act, to refuse to issue or to cancel
- 10 the certificate.

(2) 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 (3) Before cancelling a certificate of registration upon the grounds specified in subsection (1) (a), (b) or (d), the Authority shall, in the prescribed manner, forward a notice in writing to the holder of the certificate of the grounds upon which the Authority proposes to cancel the certificate.

20 (4) A person to whom any such notice has been forwarded or a person whose application for a certificate of registration has been refused upon either of the grounds specified in subsection (1) (a) or (b) may in the manner and within a time prescribed appeal against the cancellation or refusal to a court of

25 petty sessions held before a stipendiary magistrate.

(5) The court shall hear and determine the appeal and the decision of the court shall be final and shall be given effect to by

30 the Authority.

(6) The court hearing an appeal under this section shall not, for the purposes of that hearing, be bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

Dairy Industry Marketing Authority.

34. (1) Where—

Cancellation
of certificate
on cessation
of use.

(a) a condition to which a certificate of registration is subject prohibits the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and

5

(b) the holder of the certificate ceases to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area, as the case may be,

10

he shall forthwith furnish a notice in writing to that effect to the Authority.

(2) Where the Authority receives a notice pursuant to subsection (1), it shall cancel the certificate of registration to which the notice relates.

15

(3) The holder of a certificate of registration who fails to comply with a requirement made of him by subsection (1) is guilty of an offence against this Act.

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

Registration
in respect of
certain
interstate
activities.

(a) pasteurising, sterilising or otherwise treating milk; or

(b) storing, distributing, supplying or selling milk,

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—

25

(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,

30 apply in the manner provided by section 32 (4) for a certificate of registration as a dairy produce merchant.

Dairy Industry Marketing Authority.

(2) The Authority may determine an application 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
5 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 33 shall be read as if—

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

(b) the words “the grounds specified in subsection (1) (a), (b) or (d)” were omitted from subsection (3) and the words “the ground specified in subsection (2) or any of the grounds specified in subsection (1)” were inserted
15 instead; and

(c) subsections (4), (5) and (6) were omitted and the following subsections were inserted :—

(4) A person dissatisfied with the Authority’s decision—

20 (a) to issue him with a certificate of registration as a dairy produce merchant that authorises him to carry on only such activities as a dairy produce merchant as are specified in the certificate;

25 (b) to issue him with a certificate of registration as a dairy produce merchant subject to conditions; or

(c) to vary the conditions to which his certificate of registration as a dairy produce merchant is subject for the time being or to impose conditions or additional conditions to which that
30 certificate is to be subject,

and a person—

(d) notified pursuant to subsection (3); or

Dairy Industry Marketing Authority.

(e) whose application for a certificate of registration as a dairy produce merchant has been refused upon any of the grounds specified in subsection (1),

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 (5) Subject to subsection (6), a court of petty sessions to which an appeal is made under this section shall hear and determine the appeal.

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

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

(a) in the case of an appeal against a decision referred to in subsection (4) (a), (b) or (c), it was reasonably necessary in the interest of public health for that decision to be made; or

20 (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.

25 (8) The Authority shall give effect to the decision of a court to which an appeal is made under this section.

DIVISION 2.—Regulation of Dairy Premises.

36. In this Division, “authorised officer” means—

30 (a) an officer or a temporary employee of the Department;
or

Interpre-
tation:
Pt. IV;
Div. 2.

Dairy Industry Marketing Authority.

(b) an officer of the Authority,

appointed by order of the Director-General of the Department to be an authorised officer for the purposes of this Division.

37. (1) For the purposes of this Act, an authorised officer may— Powers of authorised officers, generally.

- 5 (a) take, without payment, samples of milk from any dairy premises, or from any conveyance, utensil or container;
- 10 (b) by notice in writing served on any dairyman, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality provided for or prescribed by or under this or any other Act for milk and dairy products;
- 15 (c) by notice in writing served on any person who has possession of any milk which appears to the authorised officer to be deleterious to health, unwholesome or impure, direct that person not to supply that milk for consumption or use and to deal with or dispose of that milk in such manner as may be specified in the direction;
- 20 (d) where an examination, a test or an analysis carried out on milk in the possession of any person indicates that the milk is deleterious to health, unwholesome or impure, by notice in writing served on that person, direct that person—
- 25 (i) not to supply any milk for consumption or use until such time as the Director-General of the Department or an authorised officer, in the like manner, withdraws that direction; and
- 30 (ii) to deal with or dispose of milk that would, but for that notice, have been so supplied in such manner as may be specified in the notice;

Dairy Industry Marketing Authority.

- (e) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or person, specified in the direction, in the course of his business as a carrier; or
- 5 (f) by notice in writing served on any dairyman or other person concerned with the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, direct him to furnish such information or returns, including periodical information
- 10 or returns, as are specified in the notice.

(2) An authorised officer may exercise any of his powers under subsection (1) (c), (d) and (f), whether or not the matter or thing in respect of which the power is exercised is in or of New South Wales.

15 (3) A person—

- (a) who resists or obstructs any authorised officer exercising his power under subsection (1) (a); or
- (b) who, being a person on whom a notice under subsection (1) (b), (c), (d), (e) or (f) has been served, without
- 20 reasonable excuse neglects or fails to comply with the direction contained in the notice,

is guilty of an offence against this Act.

38. (1) Where an authorised officer believes on reasonable grounds—

Authorised officer may order remedial measures.

- 25 (a) that any substance, article, apparatus or other thing used by any dairyman in producing milk is unfit for the purpose for which it is intended to be used;
- (b) that any substance, article, apparatus or other thing used for or in connection with milk by a dairyman is
- 30 unfit for that use;
- (c) that any storage facility or any conveyance used by a dairyman for the purpose of the storage or carriage of milk is unfit for that purpose; or

Dairy Industry Marketing Authority.

(d) that any dairy premises are unfit for use for or in connection with an activity that a registered dairyman is authorised by his certificate of registration to carry on there,

5 he may, by notice in writing served on the dairyman or registered dairyman, as the case may be, direct—

(e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;

10 (f) that substance, article, apparatus or other thing to be made fit for use for or in connection with milk;

(g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk; or

15 (h) those dairy premises to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on 20 him under subsection (1) is guilty of an offence against this Act.

39. (1) For the purposes of this Act, an authorised officer may, at any reasonable time—

Powers of entry, etc., of authorised officers.

25 (a) subject to subsection (5), enter and, for as long as is reasonably necessary for the exercise of his powers under this section, remain in or on any dairy premises or conveyance which are or is, or which the authorised officer suspects, on reasonable grounds, are or is, being used for or with respect to the collection, production, treatment, carriage, storage, distribution, delivery, 30 supply, use or sale of milk;

Dairy Industry Marketing Authority.

- 5 (b) search and inspect any dairy premises or conveyance and examine any milk, measures, apparatus, appliances, containers, utensils, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;
- (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects, on reasonable grounds, contain, any milk;
- 10 (d) request any person found in or on any dairy premises or conveyance referred to in paragraph (a) or any registered dairyman—
- (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
- 15 (a) which relate to, or which the authorised officer suspects, on reasonable grounds, relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk;
- 20 and
- (b) which at the time of the request are in the possession or under the control of that person; and
- (ii) to answer any question with respect to—
- 25 (a) any such accounts, records, books, documents, labels or other things whatsoever; or
- (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk.
- 30
- (2) Any person who—
- (a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;

Dairy Industry Marketing Authority.

- (b) resists or obstructs any authorised officer in the exercise of any such power;
 - (c) fails to comply with any request by an authorised officer made under subsection (1) (d); or
 - 5 (d) furnishes to an authorised officer any information which is false or misleading in any material particular,
- is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection (2) (c) by reason of his failure to answer any question
10 referred to in subsection (1) (d) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person is not excused from answering any question, if required to do so under subsection (1) (d), on the ground that
15 the answer might tend to incriminate him or make him liable to penalty, but the information furnished by him shall not be admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (2).

(5) On applying for admission to any premises which he is
20 empowered by subsection (1) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises written evidence of his appointment as an authorised officer.

(6) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that
25 portion of any dairy premises or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(7) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question
30 asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

Dairy Industry Marketing Authority.

40. (1) Where an authorised officer believes on reasonable grounds— Seizure of contaminated milk.

5 (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence on or in any dairy premises, have caused any milk to have become contaminated by that disease; and

10 (b) that any milk, if so contaminated, would be unfit for human consumption,

the authorised officer may seize and destroy any milk found on those dairy premises at any time before the authorised officer is satisfied that there is no longer any risk of milk so found being contaminated by that disease or may, in relation to any such milk,
15 exercise any other power conferred on the authorised officer by this Act.

(2) Every person who—

(a) resists or obstructs any authorised officer in the exercise of any of his powers under subsection (1); or

20 (b) refuses to give information, or gives information knowing it to be false or misleading in a material particular, in answer to any inquiry made by any authorised officer in the exercise of any of those powers,

is guilty of an offence against this Act.

25 DIVISION 3.—*Regulation of Quality of Milk and Dairy Products.*

41. (1) Any person who sells, otherwise than to a dairy produce merchant, milk that has not been— Milk to be pasteurised, treated, etc.

30 (a) pasteurised, processed by means of an ultra heat treatment method or sterilised; or

Dairy Industry Marketing Authority.

(b) treated in the prescribed manner,
is guilty of an offence against this Act.

(2) Any person who sells, otherwise than to a dairy
produce merchant, milk that has not been pasteurised, processed by
5 means of an ultra heat treatment method or sterilised by the holder
of a certificate of registration that authorises that holder to carry
on the activity of pasteurising, processing by means of an ultra
heat treatment method or sterilising, as the case may be, milk, is
guilty of an offence against this Act.

10 (3) Any person who sells, otherwise than to a dairy
produce merchant, packaged or bottled milk that has not been
packaged or bottled, as the case may be, by the holder of a
certificate of registration that authorises that holder to carry on the
activity of packaging or bottling, as the case may be, milk, is guilty
15 of an offence against this Act.

(4) The power conferred by section 98 to exempt any
person from any of the provisions of this Act does not extend to
exempting a person from the provisions of subsection (1) except in
relation to milk obtained from a dairy herd—

20 (a) which has been certified, by the Chief, Division of Animal
Health of the Department, to be free from tuberculosis
and any other disease prescribed for the purposes of this
subsection; and

25 (b) to which an animal has not been admitted after the herd
was so certified.

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

42. (1) In this section, "infectious disease" means any disease
declared by the Governor, by order published in the Gazette, to be
30 an infectious disease for the purposes of this section. Infectious
diseases
in milk.

Dairy Industry Marketing Authority.

(2) Where a medical practitioner is treating a person for an infectious disease and the medical practitioner is aware that that person or any other person who has come into contact with that person could, by reason of his presence on or in any dairy premises, 5 milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease, the medical practitioner shall forthwith notify, in writing, the Health Commission of New South Wales, the Department and the Authority.

10 **43.** (1) The occupier of a dairy produce factory is guilty of ^{Putrescent} an offence against this Act— _{cream.}

15 (a) if he does not, forthwith after the receipt of any putrescent cream at the factory, treat the cream by adding to it a prescribed substance that does not decrease the value of the cream for animal food and—

(i) return the cream to the person by whom it was supplied; or

20 (ii) dispose of the cream otherwise than for the purpose of its being used as a food within the meaning of this Act; or

(b) if he uses any putrescent cream in the production of dairy products or retains any putrescent cream at the factory for any longer than is necessary to comply with the requirements of paragraph (a).

25 (2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, dairy products or margarine otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of subsection
30 (1), be deemed to be the occupier of that dairy produce factory.

Dairy Industry Marketing Authority.

44. (1) Any person who places or keeps, or causes to be placed or kept, any milk, dairy product or margarine— Storage of milk, etc.

(a) in any milk store, dairy produce factory or dairy produce store; or

5 (b) in or on any conveyance,

in such a manner that the milk, dairy product or margarine may be deteriorated either by heat or injurious smells, or by the proximity of unclean matter, is guilty of an offence against this Act.

10 (2) In subsection (1), "milk" means—

(a) milk supplied for human consumption, as milk, or for use by humans, as milk; and

(b) milk supplied for use in the production of dairy products.

DIVISION 4.—Grading of Milk, Cream and Dairy Products.

15 45. (1) In this Division—

"certificate" means a certificate issued under section 46 that is in force;

Interpretation:
Pt. IV,
Div. 4.

"cream" means cream separated from milk;

20 "permit" means a permit issued under section 47 that is in force.

(2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, cream or dairy products otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of this Division, be deemed to be the occupier of that dairy produce factory.

46. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority shall issue a certificate to any person who has the prescribed Issue of certificates.

Dairy Industry Marketing Authority.

qualifications and who, to the satisfaction of the Authority, has passed the prescribed examination authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
 - 5 (b) determine the grade of cream; or
 - (c) test milk and cream,
- supplied or to be supplied to a dairy produce factory.

47. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority ^{Issue of permits.} may issue a permit to a person authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
 - (b) determine the grade of cream; or
 - (c) test milk and cream,
- 15 supplied or to be supplied to a dairy produce factory.

48. A person is guilty of an offence against this Act if, knowing or having reasonable grounds to suspect that his determination or the result of his test, as the case may be, will be used for the ^{Grading and testing to be authorised.} purposes of section 49, 50 or 52, he—

- 20 (a) determines the grade of milk;
- (b) determines the grade of cream; or
- (c) tests milk or cream,

supplied or to be supplied to a dairy produce factory, unless he is the holder of a certificate or permit authorising him so to do.

Dairy Industry Marketing Authority.

49. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any butter at the factory unless the grade of the cream used in the production of the butter has been determined, by a person authorised by a certificate or permit to determine the grade of cream, 5 before the butter is produced.

Grading
of cream
used for
butter.

50. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any dairy product, not being butter, at the factory unless the grade of the milk used in the production of the dairy product has been 10 determined, by a person authorised by a certificate or permit to determine the grade of milk, before the dairy product is produced.

Grading of
milk used
for certain
products.

51. The occupier of a dairy produce factory is guilty of an offence against this Act if butter or any other dairy product for which a grade is prescribed under this Act is, at the factory, put up 15 in a package that does not bear, as prescribed, a statement of its grade.

Labelling
of butter,
etc.

52. (1) The occupier of a dairy produce factory shall, at the time and in respect of the periods prescribed, forward to each person who supplies milk or cream to the factory a statement in 20 writing setting out—

Notice of
milk, etc.,
delivered.

- (a) the quantity of milk and the quantity of cream supplied to the factory by that person;
- (b) the quantity, if any, of the milk and cream so supplied that, to his knowledge, has not been accepted by the 25 Authority;
- (c) the grade or grades, determined in the prescribed manner by a person authorised by a certificate or permit to determine the grade or grades, of the milk and cream so supplied; and

Dairy Industry Marketing Authority.

- (d) where the regulations so require, the milk fat content and any other prescribed qualities, determined in the prescribed manner by a person authorised by a certificate or permit to test milk and cream, of the milk and cream; and
- 5 (e) where the regulations so require, the manner in which payment for the milk and cream has been calculated or otherwise determined.

(2) An occupier of a dairy produce factory who contravenes subsection (1) is guilty of an offence against this Act.

PART V.

10

FIXING OF CERTAIN DAIRY INDUSTRY PRICES.

DIVISION 1.—*The Dairy Industry Pricing Committee.*

15 **53.** (1) There shall be a “Dairy Industry Pricing Committee” which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Part.

Constitution of Dairy Industry Pricing Committee.
cf. Act No. 29, 1970, s. 42.

(2) Schedule 3 has effect in relation to the constitution and procedure of the Pricing Committee.

20 **54.** For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Pricing Committee by or under this Part the Pricing Committee may, with the approval of the Minister and on such terms as may be arranged with the Authority or the Department, as the case may be, make use of the services of any of the officers of the Authority or officers and temporary employees of the Department.

Pricing Committee may make use of certain employees of the Authority, etc.
cf. Act No. 29, 1970, s. 50.

*Dairy Industry Marketing Authority.*DIVISION 2.—*Prices of Milk and Declared Dairy Products.*

55. (1) The Pricing Committee may from time to time make a recommendation—

Pricing Committee may recommend prices for milk, etc.

- 5 (a) for fixing the minimum price which may be paid to dairymen for milk;
- (b) for fixing the price which may be paid to or charged by any person for the collection, treatment, carriage, storage, distribution, supply or delivery of milk;
- 10 (c) for fixing the price which may be paid by dairy produce merchants or other persons for milk bought by wholesale for re-sale or for use;
- (d) for fixing the maximum price at which milk may be sold by retail;
- 15 (e) for fixing the price above or below which milk may not be sold by retail;
- (f) for fixing the minimum price which may be paid for milk sold by wholesale by dairymen, the milk fat content of which is to be used in the production, in New South Wales, of dairy products; or
- 20 (g) for varying or revoking any order made under subsection (9).

(2) A recommendation made under subsection (1) may recommend—

- 25 (a) different minimum prices under subsection (1) (a) or (f), according to any one or more of the following criteria :—
- (i) differences in the grade, quality, description or quantity of milk;
- 30 (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk;
- (iii) the different areas in which milk or the milk fat content of milk is produced;

Dairy Industry Marketing Authority.

- (iv) the different purposes for which milk or the milk fat content of milk is to be used;
- (b) different prices under subsection (1) (b) according to any one or more of the following criteria:—
- 5 (i) differences in the grade, quality, description or quantity of milk collected, treated, carried, stored, distributed, supplied or delivered;
- (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply or delivery of milk;
- 10 (iii) the different areas in which milk is collected, treated, carried, stored, distributed, supplied or delivered; or
- (c) different wholesale prices, different maximum retail prices or different fixed retail prices under subsection (1) (c), (d) or (e) respectively according to any one or more of the following criteria :—
- 15 (i) differences in the grade, quality, description or quantity of milk;
- (ii) differences in the conditions or methods of delivery, distribution, supply or sale of milk;
- 20 (iii) the different areas in which milk is to be delivered, distributed, supplied or sold;
- (iv) the different purposes for which milk or the milk fat content of milk is to be used.
- 25

(3) A recommendation made under subsection (1) may describe the quality of milk wholly or partly by reference to the milk fat content of the milk.

(4) For the purposes of making a recommendation under
30 this section, the Pricing Committee—

- (a) shall have regard to any report a copy of which is furnished to the Authority under section 57 (3);

Dairy Industry Marketing Authority.

- (b) may conduct an investigation for the purpose of obtaining such further information as it considers necessary;
- 5 (c) shall, if the Minister so directs, hold in the manner prescribed, a public inquiry and shall have regard to any information received during that inquiry; and
- (d) may have regard to such other information as the Pricing Committee considers it necessary or desirable to have regard.
- 10 (5) For the purpose of conducting an investigation or holding an inquiry under subsection (4), the Pricing Committee shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon a commissioner appointed under Division 1 of Part II of the Royal Commissions
15 Act, 1923, and that Act, section 13 and Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the Pricing Committee in the same way as it applies to a witness summoned by or appearing before a royal commission.
- 20 (6) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.
- (7) Where the Pricing Committee has made a recommendation under this section—
- 25 (a) in respect of milk of a class prescribed for the purposes of this subsection—it shall forward the recommendation to the Prices Commission; or
- (b) in respect of any other milk—it shall forward the recommendation to the Authority which shall forward it to
30 the Minister together with any comments that the Authority sees fit to make in respect of the recommendation.

Dairy Industry Marketing Authority.

(8) The Minister may, after considering any recommendation of the Pricing Committee forwarded to him under subsection (7) (b) and any comments of the Authority accompanying the recommendation, approve or reject the
5 recommendation.

(9) Where—

(a) the Prices Commission receives a recommendation forwarded to it under subsection (7) (a), it may, after considering the recommendation—

10 (i) by order published in the Gazette, notify prices in respect of milk to which the recommendation relates, which prices may be the same as or different from those recommended, and vary or revoke any previous order in force under this
15 subsection with respect to that milk; or

(ii) reject the recommendation and refuse to notify any prices as a consequence of its receipt of the recommendation; or

20 (b) the Minister, under subsection (8), approves of a recommendation, he may, by order published in the Gazette, notify prices in respect of milk to which the recommendation relates in accordance with the recommendation and vary or revoke any previous order in force under this subsection with respect to that milk.

25 (10) Prices notified by an order published under subsection (9) take effect on and from a day (not being earlier than the date of publication of the order) specified in the order and shall continue to have effect until varied or revoked by a subsequent order made under subsection (9) by the Prices Commission or the
30 Minister, as the case may require.

(11) Where a maximum price for milk sold by retail has been notified by an order in force under subsection (9), neither the Prices Commission nor the Minister may make an order fixing the price above or below which that milk may not be sold by retail
35 unless it or he revokes the order fixing the maximum price for that milk.

Dairy Industry Marketing Authority.

(12) Any person who—

(a) sells—

- 5 (i) milk by retail at a price exceeding the maximum price notified by an order in force under subsection (9) in respect of that milk;
- (ii) milk by wholesale at a price other than the price so notified in respect of that milk, or the milk fat content of that milk; or
- 10 (iii) milk by retail at a price above or below the price notified by an order in force under subsection (9) as the price above or below which that milk may not be sold by retail,

15 with knowledge, where the price so notified applies to milk to be used for any particular purpose, of the purpose for which the milk sold is to be used; or

- (b) pays or charges any price for the collection, treatment, carriage, storage, distribution, supply or delivery of milk exceeding the price so notified in respect thereof,

is guilty of an offence against this Act.

20 **56.** (1) The Governor may, by order published in the Gazette, declare any dairy product to be a declared dairy product for the purposes of this section. Pricing Committee may make recommendations for fixing

(2) The Pricing Committee may make a recommendation— a prices for declared dairy products.

25 (a) for fixing the minimum wholesale prices to be paid to producers of declared dairy products; or

(b) for varying or revoking any order made under subsection (8).

30 (3) A recommendation made under this section may recommend different minimum wholesale prices according to differences in grade, quality, description or quantity, or the condi-

Dairy Industry Marketing Authority.

tions of delivery, distribution or sale, of the declared dairy products, the different areas in which the declared dairy products are produced or the different purposes for which the declared dairy products are to be used.

5 (4) For the purposes of making a recommendation under this section, the provisions of section 55 (4) and (5) apply to the Pricing Committee in the same way as they apply to the Pricing Committee for the purposes of making a recommendation under that section.

10 (5) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.

(6) Where the Pricing Committee has made a recommen-
15 dation under this section it shall forward it to the Authority which shall forward it to the Minister, together with any comments the Authority sees fit to make in respect of the recommendation.

(7) The Minister may, after considering the recommenda-
20 tion of the Pricing Committee and any comments of the Authority, approve or reject the recommendation.

(8) Where the Minister approves of the recommendation, he may, by order published in the Gazette, notify wholesale prices in respect of declared dairy products in accordance with the recommendation of the Pricing Committee and those prices shall
25 take effect on and from a day (not being earlier than the date of publication of the order) to be specified in the order and shall continue to have effect until varied or revoked by a subsequent order made on the recommendation of the Pricing Committee.

(9) Any person—

30 (a) who, being the producer of a declared dairy product, sells, by wholesale, a declared dairy product;

Dairy Industry Marketing Authority.

- (b) who buys, by wholesale, a declared dairy product from the producer thereof,
 at a price less than the wholesale price notified by an order made under subsection (8) in respect of that declared dairy product is
 5 guilty of an offence against this Act.

DIVISION 3.—*Miscellaneous.*

57. (1) For the purposes of this Part, the Minister shall cause the Division of Marketing and Agricultural Economics of the Department to carry out surveys, at the times required under
 10 subsection (2), of the cost and income structure of the dairying industry in New South Wales with particular reference to the costs of on farm production of milk, the costs of the processing of milk and the costs of the production of dairy products.

Surveys
to be con-
ducted
by the
Department.

- (2) A survey under this section shall be carried out at
 15 intervals of not more than 5 years but the Minister may, at the request of the Pricing Committee or otherwise, direct that a supplementary survey be carried out at such other times as he considers appropriate.

- (3) The information obtained from any survey carried out
 20 under this section shall be embodied in a report a copy of which shall be furnished to the Authority.

58. (1) If, after any agreement is made for the sale and purchase of milk, the Prices Commission or the Minister in the exercise of its or his powers under section 55 notifies any price
 25 which affects either directly or indirectly the price to be paid to a dairyman under that agreement for milk supplied for human consumption, as milk, or for use by humans, as milk, or the price to be paid to or charged by any person under that agreement for the collection, treatment, carriage, storage, distribution, supply or
 30 delivery of milk supplied for human consumption, as milk, or for

Effect of
price
fixing on
contracts.

Dairy Industry Marketing Authority.

use by humans, as milk, that agreement shall, as on and from the date the notification takes effect, be deemed to be altered as follows :—

- 5 (a) where any minimum price to be paid to a dairyman for milk so supplied is so notified, the price so notified shall be substituted for the agreed price in the agreement where the agreed price is less than the minimum price notified in respect of milk of the grade, quality or description supplied or sold (whether or not grade, 10 quality or description is specified in the agreement);
- (b) where any price is so notified for the collection, treatment, carriage, storage, distribution, supply or delivery of milk so supplied, and that price applies to milk in respect of which the agreement applies, that price shall, 15 if it is less than the agreed price in the agreement, be substituted for the agreed price;
- (c) where the agreement is between a dairy produce merchant and a person other than a dairyman, and any agreement under which the dairy produce merchant 20 acquired the milk has been varied by the operation of paragraph (a) or (b)—
- (i) if the variation operates to increase the cost of the milk to the dairy produce merchant he may add to the agreed price in the agreement the net amount of the increase applicable to that milk; 25 and
- (ii) if the variation operates to decrease the cost of the milk to the dairy produce merchant, the purchaser may deduct from the agreed price in 30 the agreement the net amount of the decrease applicable to that milk,

but in no case shall this paragraph operate to increase the price payable under any agreement to a price exceeding any maximum price so notified in relation to milk 35 of the grade, quality or description sold (whether or not grade, quality or description is specified in the agreement).

Dairy Industry Marketing Authority.

(2) An order made by the Minister under section 55 or 56 or made by the Prices Commission under section 55 shall not apply to—

- 5 (a) the price to be paid for any milk supplied otherwise than for human consumption, as milk, or otherwise than for use by humans, as milk;
- (b) the price to be paid or charged for the collection, treatment, carriage, storage, distribution, supply or delivery of any milk so supplied; or
- 10 (c) the price to be paid for any declared dairy product, within the meaning of section 56, supplied,

under an agreement made before the order takes effect.

59. (1) Notwithstanding the provisions of any other Act or of any regulations, rules or by-laws under any other Act, whether
15 passed or made before or after the commencement of this Act, 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.

(2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Act, affect any price fixed under any
20 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
25 Act, cease to have effect.

60. Every document requiring authentication by the Pricing Committee may be sufficiently authenticated if signed by the chairman of the Pricing Committee and one other member of the Pricing Committee. Documents of Pricing Committee—how authenticated.

Dairy Industry Marketing Authority.

PART VI.

ACQUISITION OF PROPERTY BY THE AUTHORITY.

DIVISION 1.—*Acquisition of Land.*

5 **61.** The Authority may acquire land for any purpose of this Act by lease or purchase, or by resumption or appropriation in accordance with the provisions of section 62.

Land—how acquired.
cf. Act No. 59, 1931, s. 64.

10 **62.** (1) The Governor, on the application of the Authority, may, under the Public Works Act, 1912, resume any land, and appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

Resumption or appropriation of land.
cf. Act No. 59, 1931, s. 67.

(2) Any such resumption or appropriation shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the Authority shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

(3) The provisions of the Public Works Act, 1912, sections 34, 35, 36 and 37 excepted, shall apply to and in respect of the acquisition of land under this section.

DIVISION 2.—*Acquisition of Undertakings.*

20 **63.** In this Division—

“owner”, in relation to an undertaking, means the person carrying on that undertaking;

“undertaking” means—

Interpretation: Pt. VI, Div. 2.
cf. Act No. 59, 1931, s. 68.

25 (a) the business of a person engaged in the collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk, dairy products

Dairy Industry Marketing Authority.

or margarine, and any land, conveyances, machinery, equipment and plant mainly used in connection with that business; and

- (b) part of any undertaking defined by paragraph (a).

5

64. (1) If the Authority determines that an undertaking should, in the public interest, be taken over by the Authority it may apply to the Governor through the Minister for authority to take over the undertaking.

Resumption
of under-
taking.
cf. Act No.
59, 1931,
s. 69.

10 (2) Before the Governor approves of any such application, the Authority shall make provision to the satisfaction of the Governor for payment of compensation, interest and all necessary costs and charges incidental to the taking over of the undertaking.

15 (3) The Governor may approve of any such application and authorise the Authority to take over the undertaking specified in the application.

(4) Where the Governor has authorised the Authority to take over any undertaking, it may, by notice served on the owner of the undertaking, notify him that, as on and from a date specified
20 in the notice, not being less than 1 month after the service of the notice, the undertaking shall be taken over by the Authority, and thereupon the following provisions shall have effect :—

(a) the owner may, by notice in or to the effect of the prescribed form, require the Authority to purchase the conveyances, machinery, equipment and plant, and his estate
25 or interest in any land, mainly used by him in connection with the undertaking to be so taken over;

(b) any such conveyances, machinery, equipment, and plant shall be purchased at a price which shall not exceed the
30 then replacement value of the conveyances, machinery, equipment or plant, having regard to their age and condition at the time of their being actually handed over to the Authority, together with a sum equal to 10 per cent of that value;

Dairy Industry Marketing Authority.

- (c) any land shall be paid for at the then market value of the estate or interest of the owner of the undertaking therein;
- 5 (d) the Authority may, at any time after the expiry of 7 days after the receipt of a notice requiring the Authority to purchase, and shall, not later than 1 month after the receipt of the notice, take possession of the conveyances, machinery, equipment and plant, and the land, of the owner on a date notified to that owner and the day on which possession is taken shall be the date as at which the values shall be ascertained;
- 10 (e) where the owner requires the Authority to purchase his estate or interest in any land, he shall satisfy the Authority that he has a good marketable title to that estate or interest, and shall obtain the concurrence in the assurance thereof to the Authority of any mortgagee thereof and of any person entitled to any interest in the conveyances, machinery, equipment and plant purchased.
- 15

65. (1) Upon receipt of a notice under section 64 (4) (a) from an owner of an undertaking requiring the Authority to purchase any property, the Authority shall forthwith cause a valuation to be made of the conveyances, machinery, equipment and plant, and of the estate or interest in the land, required to be purchased.

20

Valuation.
cf. Act No.
59, 1931,
s. 70.

(2) The Authority may, with the approval of the Minister in charge of the Government Department concerned, make use of the services of any officers of the Public Service for the purpose of making the valuation.

25

(3) For the purpose of the making of the valuation the owner of the undertaking shall permit any person authorised by the Authority so to do to enter his premises at any reasonable time, and to make full inspection of the land, conveyances, machinery, equipment and plant required to be purchased.

30

(4) Notwithstanding any other provision of this Part, in valuing any estate or interest in land for the purposes of this section any increase in the value of the land attributable directly or indirectly to the operation of this Act shall not be taken into account.

35

Dairy Industry Marketing Authority.

(5) No compensation shall be payable in respect of goodwill.

(6) The Authority shall in accordance with the provisions of this Division determine the amount to be paid in respect of any undertaking taken over by the Authority, and shall notify the owner of that amount.

66. (1) If any owner whose undertaking is taken over by the Authority under this Division is aggrieved by the determination of the Authority as to the amount to be paid in respect of the taking over of the undertaking he may appeal to the Land and Environment Court against the determination in accordance with rules of court, and the Land and Environment Court shall have jurisdiction to hear and determine the appeal. Appeal. cf. Act No. 59, 1931, s. 71.

(2) The Authority may exercise its powers under section 64 (4) (d) notwithstanding that any appeal is pending under subsection (1).

67. The amount payable under the provisions of this Division upon the taking over of an undertaking shall carry interest at the rate of 4 per cent per annum as from the date upon which the Authority takes possession of the land, conveyances, machinery, equipment and plant until the date of payment. Interest. cf. Act No. 59, 1931, s. 72.

68. Until the date notified by the Authority as the date on which the land, conveyances, machinery, equipment and plant are to be taken possession of by the Authority the owner of the undertaking shall continue to carry on the undertaking in a manner equally as satisfactory as it was carried on before the notice pursuant to section 64 (4) (d) was given by the Authority, and if, in the opinion of the Authority, the undertaking is not so carried on the Authority may give notice to the owner specifying the par- Owner to carry on until undertaking handed over. cf. Act No. 59, 1931, s. 73.

Dairy Industry Marketing Authority.

particular matters which are unsatisfactory, and requiring the owner to remedy those matters within a time specified in the notice, and in default of compliance with that notice the Authority may—

- 5 (a) rescind the notice given pursuant to section 64 (4) (d) and thereupon the obligation of the Authority to purchase the undertaking of the owner or to pay any amount in connection therewith shall be terminated as from the date of the notice of rescission; or
- 10 (b) require that compensation be allowed the Authority for any loss arising out of the failure of the owner to carry on the business in a satisfactory manner or to comply with the requirements of any notice of default given by the Authority under this section.

69. Nothing in this Division shall preclude the Authority from purchasing any undertaking, but such a purchase shall not be made if the purchase price exceeds the amount that would be payable in accordance with this Division if the Authority were required to purchase the undertaking under this Division.

Purchase.
cf. Act No.
59, 1931,
s. 74.

PART VII.

20

FINANCE.

DIVISION 1.—*Accounts and Audits.*

70. (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

Accounts.

25 (2) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

Dairy Industry Marketing Authority.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Authority.

5 (4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he
10 has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the
15 statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the
20 receipt by him of the statement.

(8) The financial year of the Authority shall be the year commencing on 1st July.

71. (1) The accounts and records of financial transactions of the Authority, and the records relating to assets of or in the custody
25 of the Authority, shall be inspected and audited by the Auditor-General. Audit.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records,
30 documents and papers of the Authority and may make copies thereof or take extracts therefrom.

Dairy Industry Marketing Authority.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of the Authority, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-
5 General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any
10 part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- 15 (i) due diligence and care have been shown in the collection and banking of money payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- 20 (iii) any of the money or other property of the Authority has been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

25 (6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Dairy Industry Marketing Authority.

DIVISION 2.—*Investment and Borrowing.*

72. The Authority may invest moneys held in government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

Investment
of funds

73. (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

Temporary
accommo-
dation.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

74. The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money for—

Purposes
for which
money may
be
borrowed.

- (a) the purpose of carrying out and discharging any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

75. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

Reserves for
repayment.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

Dairy Industry Marketing Authority.

(3) Money held as reserve for loan repayment fund may be invested in government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, 5 or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan 10 repayment fund from which the investments were made.

(5) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan 15 in respect of which the fund has been established has been repaid.

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the 20 reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their can- 25 cellation until the maturity of the loan.

(7) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, that balance shall form part of the funds of the Authority.

(8) The reserve for loan repayment fund shall not be 30 subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

Dairy Industry Marketing Authority.

76. (1) For securing repayment of the principal and interest on any money borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. ^{Debentures, etc.}
- 5 (2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.
- (3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.
- 10 (4) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.
- 15 (5) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Govern-
20 ment.
- (6) Any liability arising from any such guarantee shall be payable out of money provided by Parliament.
- (7) The charge created by subsection (5) shall not prejudice or affect the power of the Authority to sell or convey any
25 property vested in it free of the charge.

77. (1) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest money in his hands in stock inscribed by the Authority, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925. ^{Trustees.}

Dairy Industry Marketing Authority.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any money which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of that money.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

10 **78.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof. Lost debentures.

15 (2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- 20 (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before it has been paid off;
- (b) such advertisement as the Supreme Court may direct has been published;
- 25 (c) 6 months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

30 (4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

Dairy Industry Marketing Authority.

(5) The provisions of this section shall extend to the case of a lost, destroyed or defaced coupon in the same way as they apply to the case of a lost, destroyed or defaced debenture or bond.

79. (1) A person advancing money to the Authority shall not **5** be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or mis-application. Protection
of
investments.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, **10** in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

80. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank **15** pari passu without any preference one above another by reason of priority of date or otherwise. Debentures
and bonds
to rank
pari passu.

PART VIII.

SUPPLEMENTARY.

20 DIVISION 1.—*Additional Powers of Authorised Officers.*

81. In this Division, "authorised officer" means a person appointed to be an authorised officer under section 20 (1) or 36. Interpreta-
tion: Pt.
VIII,
Div. 1.

82. (1) An authorised officer who finds a person committing an offence against this Act or the regulations or who suspects, on **25** reasonable grounds, a person of having committed or attempted to commit any such offence, may demand from that person his name and place of abode. Demanding
name and
place of
abode.

Dairy Industry Marketing Authority.

(2) Any person who, upon demand made under subsection (1) and upon production of written evidence of the appointment of the authorised officer making the demand—

- (a) fails or refuses to state his name or place of abode; or
 - 5 (b) gives a false name or place of abode,
- is guilty of an offence against this Act.

83. (1) In this section—

Inspection
of vehicles.

“dairy product” includes a dairy product that is not a New South Wales dairy product;

10 “margarine” includes margarine that is not New South Wales margarine;

“milk” includes milk that is not New South Wales milk;

“officer” means—

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

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

“place” includes road, whether public or otherwise.

(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.

25 (3) The driver or person in charge of a vehicle approaching a sign referred to in subsection (2) from the direction in which the sign is facing 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
30 powers conferred upon him by or under this or any other Act.

Dairy Industry Marketing Authority.

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

- 5 (a) inspect any vehicle, any milk, dairy product or margarine in or on any vehicle and examine any books, documents, papers, scales, measures, appliances, apparatus, containers or utensils, referring to or used in connection with milk, dairy products or margarine in or on any vehicle;
- (b) take, without payment, samples of any milk, dairy product or margarine in or on any vehicle;
- 10 (c) take copies of, or extracts or notes from, any books, documents or papers referred to in paragraph (a); and
- (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
15 the purposes of paragraph (a), (b) or (c).

(5) Any person who—

- (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 acting 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
25 it or anything in or on it after having been required so to do under subsection (4) (d),

is guilty of an offence against this Act.

84. (1) In subsection (2), “officer” has the meaning ascribed thereto in section 83 (1). Personation
of certain
officers.

30 (2) Any person who forges or counterfeits any written evidence of appointment of an officer or makes use of any forged, counterfeited or false written evidence of any such appointment or personates an officer or falsely pretends to be an officer is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

DIVISION 2.—*Investigation of Complaints by Dairymen.*

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

Interpretation:
Pt. VIII,
Div. 2.

“conduct” means—

- 5 (a) any conduct; or
(b) any conduct of a class,
for the time being prescribed for the purposes of this definition;

10 “investigation” means investigation into conduct that is the subject of a complaint under section 87;

“Special Officer”, in relation to an investigation, means the Special Officer nominated under section 86 (1) in respect of the investigation.

15 86. (1) The Minister may nominate an officer or temporary employee of the Department or an officer of the Authority to carry out an investigation in relation to a complaint made under section 87.

Special
Officer.

20 (2) A person nominated under subsection (1) in respect of an investigation shall have and may exercise and discharge, in relation to the investigation, the powers, authorities, duties and functions conferred upon a Special Officer by or under this Part.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1979.

25 87. (1) Subject to subsection (2), any dairyman may complain to the Minister about the conduct of the Department or the Authority in so far as that conduct affects that dairyman.

Complaint.

30 (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.

Dairy Industry Marketing Authority.

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

(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.

(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;
- 10 (b) to the Special Officer; and
- (c) where the complaint relates to the alleged conduct of—
 - (i) the Department—to the Department; or
 - (ii) the Authority—to the Authority.

(4) A notice under subsection (3) (b) or (c) shall 15 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 Department, the Authority or the complainant.

20 89. (1) Where the Special Officer receives a notice referred to in section 88 (3) concerning a complaint, he shall carry out an investigation in relation to the complaint. Investigation.

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

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

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

Dairy Industry Marketing Authority.

- (c) to give him a copy of any document; and
- (d) to answer any question.

(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 Department and the Authority shall comply with any requirements made of them by a Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Department or the Authority, sets aside that requirement.

(6) This Division does not enable a Special Officer to require the Department or 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
- (d) to answer any question,

which relates to conduct of business within the Department or 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 with the Minister on the conduct the subject of the investigation.

90. Where, in an investigation, the Special Officer considers that there are grounds for adverse comment in respect of the Department or the Authority, any officer or temporary employee of the Department, any member or officer of the Authority or any person of whose services use is made by the Authority under section 17, the Special Officer, before making any such comment in any report or recommendation to the Minister, shall, so far as is practicable—

Person to be heard.

Dairy Industry Marketing Authority.

- (a) inform the Department, the Authority or that individual of the substance of the grounds for adverse comment; and
- (b) give the Department, the Authority or that individual an opportunity to make submissions to the Special Officer.

5 **91.** (1) After an investigation under this Division the Special Officer shall make a recommendation to the Minister.

Action following investigation.

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

(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 Department or the
15 Authority, whichever is concerned, of the grounds upon which he proposes to take, or direct the taking of, that action.

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

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

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

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

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

Dairy Industry Marketing Authority.

DIVISION 3.—*Proceedings for Offences.*

92. Proceedings for an offence against this Act or the regulations may be disposed of in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for an offence, generally.

5 93. (1) Any information, complaint, or other legal proceeding under this Act may be laid or taken in the name of the Authority by the secretary or by any other officer authorised by the Authority in that behalf either generally or in any particular case. Informations.

10 (2) In any proceedings the production of a notification in the Gazette that any person has been so authorised shall be conclusive evidence of his authority and evidence that his authority to act remains in force.

15 (3) The secretary or other officer of the Authority shall, out of the funds of the Authority, be reimbursed all damages, costs, charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection (1).

20 94. In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of— Proof of certain matters not required.

(a) the constitution of the Authority;

(b) any resolution of the Authority;

(c) the appointment of any member or any officer of the Authority;

25 (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

Dairy Industry Marketing Authority.

95. In any proceedings in any court or before any persons Evidence.
having by law or consent of parties authority to hear, receive and
examine evidence—

- (a) any printed paper purporting to be—
- 5 (i) an order made and published under this Act; and
- (ii) printed by the Government Printer,
- shall be evidence that an order in the words printed in
 that paper was duly made and published under this Act;
 and
- 10 (b) a certificate purporting to be signed by the Chairman or
 Deputy Chairman or 2 members certifying—
- (i) that a person has been appointed as the delegate
 of the Authority under section 18 and specifying
 what powers, authorities, duties or functions of
15 the Authority were delegated to him and the
 period during which he was a delegate;
- (ii) that a person was appointed as an authorised
 agent under section 19 (1) and specifying for
 what purposes and in what circumstances he was
20 authorised to act as the agent of the Authority
 and the period during which he held that
 appointment;
- (iii) that on a day, or during a period, specified in the
 certificate, a person was or was not registered as
25 a dairyman and, if the certificate certifies that he
 was so registered, certifying the conditions to
 which the certificate of registration issued to him
 was subject; or
- (iv) that on a day, or during a period, specified in the
30 certificate, a person was or was not registered as
 a dairy produce merchant and, if the certificate
 certifies that he was so registered, certifying the
 conditions to which the certificate of registration

Dairy Industry Marketing Authority.

issued to him was subject and the activities he was authorised to carry on by that certificate of registration,

shall be prima facie evidence of the facts stated therein.

- 5 **96.** In any proceedings for an offence against this Act the onus of proving any exemption under section 98 lies on the defendant. Proof of exemption.

DIVISION 4.—Miscellaneous.

- 10 **97.** (1) As soon as practicable after 30th June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on that date. Annual report.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

- 15 **98.** (1) The Minister may, by order published in the Gazette, declare that all of the provisions of this Act, or any of the provisions of this Act specified in the order, do not apply to or in respect of— Exemptions.

- 20 (a) any dairyman or any dairyman of a class;
- (b) any dairy produce merchant or any dairy produce merchant of a class;
- (c) any person or any person of a class;
- (d) any dairy premises or any dairy premises of a class;
- (e) any milk store or any milk store of a class;
- 25 (f) any dairy produce factory or any dairy produce factory of a class;

Dairy Industry Marketing Authority.

- (g) any dairy produce store or any dairy produce store of a class;
- (h) any milk, dairy product or margarine or any milk, dairy product or margarine of a class; or
- 5 (i) any part of the State,
specified in the order.

(2) Any such order shall take effect on and from a date specified therein, not being earlier than the date of the publication of the order in the Gazette.

- 10 (3) An order made under subsection (1) (a), (b) or (c) may be absolute or may be subject to such conditions as are specified by the Minister in the order.

(4) For the purposes of subsection (1), a class may be defined by reference to such circumstances or factors as the Minister
15 thinks fit and specifies in the order.

(5) If any person to whom an order under subsection (1) (a), (b) or (c) relates fails to comply with any condition subject to which the order was made, the Minister may, by order published in the Gazette, amend the order by excluding that person
20 from its operation.

(6) An order made under this section has effect according to its tenor.

99. (1) Where under the provisions of this Act or the regulations the Authority—

- 25 (a) supplies any service, product or commodity;
- (b) gives any permission;
- (c) prepares and issues any certificate or other document;

Dairy Industry Marketing Authority.

- (d) furnishes any information;
- (e) makes any registration; or
- (f) receives any application for its approval,

the charge or fee therefor may be fixed by the regulations or, where there is no charge or fee so fixed, the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

(2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of any such charge or fee.

(3) Different charges or fees may be fixed according to such circumstances or factors as are specified in the regulation or resolution.

(4) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, certificate, document or information is supplied, given, prepared or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

100. Any charge, fee or money due to the Authority under the provisions of this Act may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

Recovery of charges, etc.

101. The Authority may, in any agreement, authority, licence or certificate entered into or issued by it, insert conditions and fix a sum as and by way of liquidated damages for any breach of conditions and those damages shall be recoverable accordingly.

Power to impose conditions and fix liquidated damages.

Dairy Industry Marketing Authority.

102. Any summons, writ or other proceeding to be served on the Authority may be served by being served on any member or the secretary. Service of notice of proceedings on the Authority.

103. (1) The Governor may make regulations for or with Regulations.
5 respect to—

- (a) grades, classes, descriptions and standards of quality of milk, dairy products and margarine which may be supplied or supplied for sale or sold;
- 10 (b) the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, dairy products and margarine;
- 15 (c) prohibiting the production of any grade, class or description of milk, dairy products or margarine from ingredients not approved, or from ingredients obtained from a source not approved, by the Authority;
- 20 (d) the installation of equipment to be used on dairy premises, dairy produce factories, milk stores, and dairy produce stores, the type and design of, and the specifications required to be complied with by, any such equipment and requiring the certification, pursuant to the regulations, of persons engaged in the installation of any such equipment;
- 25 (e) the construction, alteration and maintenance of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- 30 (f) the provision, construction and equipment of laboratories and the equipment to be used thereon or therein in dairy produce factories, milk stores and dairy produce stores and the provision of staff in any such laboratories for the purpose of ensuring the wholesomeness and purity of milk, dairy products and margarine;
- (g) the treatment of milk, dairy products and margarine by holders of certificates of registration;

Dairy Industry Marketing Authority.

- 5 (h) the cleaning and sterilising of cans, vessels, utensils, appliances and equipment used in dairy premises, dairy produce factories, milk stores and dairy produce stores and regulating the size, design and construction of any package used in connection with milk, dairy products or margarine;
- (i) the particulars to be kept by dairymen in respect of their herds;
- 10 (j) the books and records to be kept and the notices to be given by persons engaged in the production, collection, treatment, carriage, storage, distribution, delivery, use or sale of milk, dairy products or margarine and the particulars required to be recorded therein;
- 15 (k) the inspection of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- (l) the forms of applications, notices, certificates, statements and other instruments to be used for the purposes of this Act, the manner in which any application under this Act is to be made and the fees payable in connection with any such instrument or application;
- 20 (m) the service of notices, orders, demands or requirements by the Authority or the Department or any officer of the Authority or officer or temporary employee of the Department;
- 25 (n) making payments in respect of—
 (i) milk vested in the Authority; and
 (ii) any food that is a declared dairy product within the meaning of section 56, and cream or milk that is not accepted by the Authority;
- 30 (o) the powers, authorities, duties and functions of the Authority, the Pricing Committee and the Department;
- (p) the fees to be paid for inspections made by the Authority or the Department;
- 35 (q) prescribing the qualifications to be possessed and the examinations to be passed by persons employed in grading or testing milk or cream;

Dairy Industry Marketing Authority.

- 5 (r) prohibiting persons from being employed in dairy produce factories as butter or cheese makers or in any other prescribed capacity unless they possess the prescribed qualifications and pass the prescribed examinations;
- (s) the issue of certificates and permits, and the duration, renewal and cancellation of certificates and permits issued under this Act or the regulations;
- 10 (t) the procedure for taking samples for the purposes of this Act or the regulations;
- (u) the methods of testing or analysis under this Act or the regulations of any milk, dairy product or margarine;
- 15 (v) the manner in which a payment for milk (other than milk accepted by the Authority) supplied to a dairy produce factory is to be calculated or otherwise determined; and
- 20 (w) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 25 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- 30 (3) A regulation may adopt wholly or partly or by reference any codes, rules, specifications or provisions which relate to any matter with which the regulation deals and which are—
- (a) recommended or adopted by the Standards Association of Australia;

Dairy Industry Marketing Authority.

- 5 (b) included in any document issued by any Department of the Crown in right of this or any other State or of the Commonwealth or issued by any instrumentality of this or any other State or of the Commonwealth constituted by an Act of the Parliament thereof;
- (c) approved by the Minister and published in the Gazette; or
- (d) prescribed by any Act or by any regulation, rule, by-law or ordinance made under any Act.

10 (4) A regulation may, wholly or partly, prescribe the manner of determining whether or not any substance belongs to a class of milk, cream, dairy products or margarine by reference to—

- 15 (a) the milk fat content or any other quality of the substance; or
- (b) the milk fat content or any other quality of any ingredient used in the production of the substance,

estimated in the prescribed manner.

20 (5) A regulation shall not be made under subsection (1) (a), (b), (g) or (h) except with the approval of the Health Commission of New South Wales.

(6) Before a regulation is made under this section, the terms of the proposed regulation shall be considered by the Authority and the Director-General of the Department.

25 (7) It shall be conclusively presumed that the requirement of subsection (6) has been satisfied in respect of any regulation purporting to have been made under this Act that is published in the Gazette.

Dairy Industry Marketing Authority.

(8) The regulations may provide that a person who contravenes a regulation is liable—

- (a) to a penalty not exceeding \$500; and
- (b) if the contravention continues, to a further penalty not exceeding \$50 for each day for which the contravention continues.

(9) A regulation may provide that in addition to imposing a penalty for a contravention of the regulation, the court imposing the penalty may order the defendant to pay to the Authority or the Department an amount specified in the order equal to the amount of any expense incurred by the Authority or the Department as a consequence of the contravention of the regulation and any amount so ordered to be paid shall be recoverable by the Authority or the Department, as the case may be, as a debt in any court of competent jurisdiction.

104. (1) In this section, "authorised officer" means a person appointed to be an authorised officer under section 20 (1) or 36. Search warrant.

(2) Upon a complaint made on oath by an authorised officer that the officer suspects on reasonable grounds that a contravention of this Act or the regulations has been or is being committed, or that preparation has been or is being made to commit such a contravention, within any dwelling, a stipendiary magistrate may issue a search warrant authorising an authorised officer named in the warrant together with a member of the police force at any time or times within 14 days from the date of issue of the warrant to enter, if need be by the use of reasonable force, the dwelling named or described in the warrant, and to search the dwelling and any fixtures or fittings therein.

105. Every person who—

- (a) resists or obstructs any officer of the Authority exercising any of the powers of the Authority or otherwise acting in the course of his duty;

Offence of obstruction, etc.

Dairy Industry Marketing Authority.

- (b) in relation to any inquiry made by any officer of the Authority acting in the course of his duty, gives information knowing it to be false or misleading in a material particular;
- 5 (c) being the holder of a certificate of registration, sells, distributes or supplies for sale milk which is not of a grade, class or description that he is authorised by the certificate to sell, distribute or supply; or
- 10 (d) sells, distributes or supplies milk to a person carrying on the business of a dairy produce merchant who is not the holder of a certificate of registration as a dairy produce merchant or, being a dairy produce merchant, purchases milk for re-sale from a person who is not the holder of a certificate of registration as a dairy produce merchant,
- 15 is guilty of an offence against this Act.

106. A person who is guilty of an offence against this Act, Penalties. other than section 106 (3), is liable—

- (a) to a penalty not exceeding \$2,000;
- (b) to imprisonment for not more than 6 months; and
- 20 (c) if the offence continues, to a further penalty not exceeding \$100 for every day for which the offence continues.

107. (1) Each Act specified in Column 1 of Part 1 of Schedule 4 is, to the extent specified opposite that Act in Column 2 of that Part of Schedule 4, repealed. Repeal and amendment of certain Acts.

- 25 (2) Each Act specified in Column 1 of Part 2 of Schedule 4 is amended in the manner set forth opposite that Act in Column 2 of that Part of Schedule 4.

108. Schedule 5 has effect.

Savings and transitional provisions.

Dairy Industry Marketing Authority.

SCHEDULE 1.

Secs. 4 (1),
5 (1).

DEFINITION OF MILK.

Cream.

Milk for separation into cream.

- 5 Milk or cream that has been treated for the purpose of pasteurising or sterilising the milk, whether or not the pasteurisation or sterilisation is complete.

Milk that has been treated for the purpose of homogenising the milk, whether or not the homogenisation is complete.

- 10 Ultra heat treated milk, or milk that has been treated by an ultra heat treatment method, whether or not the treatment is complete.

Any liquid produced from the lacteal secretion of the cow for sale or sold or to be sold under any of the following fancy, trade or proprietary names or descriptions:—

- 15 Life
HI-LO
PRIMMA
MAID-GLO
UHT milk, longlife milk, UHT longlife milk or longlife UHT milk.

20

SCHEDULE 2.

Sec. 7.

CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

1. (1) Of the 7 members—
- (a) 1 full-time member shall be a person nominated by the Minister as Chairman of the Authority;
- 25 (b) 1 full-time member shall be a person—
- (i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and
- (ii) nominated by the Minister to represent dairymen and as Deputy Chairman of the Authority;
- 30 (c) 1 full-time member shall be a person nominated by the Minister to represent the consumers of milk, dairy products and margarine;

Qualifi-
cations of
members.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- (d) 1 part-time member shall be a person—
- 5 (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to sell milk from a vehicle; and
- (ii) appointed by the Minister to represent milk vendors;
- (e) 1 part-time member shall be a person—
- 10 (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to pasteurise or sterilise milk, or to process milk by means of an ultra heat treatment method, at a place in New South Wales, to produce dairy products at a place in New South Wales or to process dairy products at any such place after their manufacture; and
- 15 (ii) appointed by the Minister to represent milk processors;
- (f) 1 part-time member shall be a person—
- 20 (i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and
- (ii) appointed by the Minister to represent dairymen; and
- (g) 1 part-time member shall be an officer of the Department appointed by the Minister.
- 25 (2) Elections for the purpose of constituting and re-constituting the panels referred to in subclause (1) (b) (i), (d) (i), (e) (i) and (f) (i) of this clause shall be conducted in the manner, and at the times or during the periods, prescribed in respect of them.
- (3) Where a registered dairyman or registered dairy produce merchant
- 30 holds 2 or more certificates of registration, the holding of each of which qualifies him to vote in an election to be conducted pursuant to regulations made under subclause (2) of this clause, the dairyman or dairy produce merchant, as the case may be, shall be entitled to cast a separate vote in that election in respect of each of those certificates of registration.
- 35 (4) Where—
- (a) the Minister is required by this Act to nominate or appoint a person required by subclause (1) (b) (i), (d) (i), (e) (i) or (f) (i) of this clause to be selected by the Minister from a panel of 3 persons to hold office as a member; and

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

5 (b) the panel from which that person would, in the absence of this subclause, be required to be nominated or appointed, as the case may be, is not constituted or re-constituted as required by the regulations,

the Minister may nominate or appoint, as the case may require, such person as he thinks fit for or to the vacant office and a person nominated or appointed under this subclause shall be deemed to have been so selected.

10 2. The members referred to in clause 1 (1) (a) and (b) shall, in and by the instruments by which they are appointed, or by other instruments executed by the Governor, be respectively appointed Chairman and Deputy Chairman of the Authority. Chairman and Deputy Chairman.

15 3. (1) Subject to this Schedule, the term of office of a member shall be such term— Term of office.

(a) in the case of a full-time member—not exceeding 5 years; and

(b) in the case of a part-time member—not exceeding 3 years,

as is specified in the instrument of his appointment.

20 (2) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for reappointment from time to time and any such reappointment shall be for such term, not exceeding the term prescribed by subclause (1) of this clause in respect of the office to which he is reappointed, as is specified in the instrument of his reappointment.

25 4. (1) Subject to subclause (2) of this clause and clause 6, where a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f), otherwise than by reason of the expiration of that member's term of office, a person shall be elected, as prescribed, to fill the vacant office and the person elected— Casual vacancies.

30 (a) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and

(b) shall be appointed to fill that office during the unexpired term of that office.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- (2) Subject to clause 6, where—
- 5 (a) a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f); and
- (b) that vacancy so occurs within the final 6 months of the term of office of the member,
- such person as the Minister thinks fit may be appointed to the vacant office by the Governor or the Minister, as the case may require, and that person—
- 10 (c) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and
- (d) shall hold office during the unexpired term of that vacant office.
5. (1) A person who is of or above the age of 70 years shall not be
15 appointed as a member. Disqualifications.
- (2) A person who is a member of any firm or a director or officer of any company, society, association or corporation directly or indirectly carrying on the business of or having for its objects the supply, treatment, distribution or sale of milk, dairy products or margarine or who receives
20 any remuneration or fee, or any benefit (otherwise than as a shareholder), from any such firm, company, society, association or corporation shall not be eligible for appointment as a full-time member and is disqualified from holding office as a full-time member.
6. During the absence or illness of a member the Governor or Minister,
25 as the case may require, may, on such terms and conditions (including terms and conditions as to payment of remuneration, allowances and expenses) as the person making the appointment may determine, appoint a person as a deputy of that member and the person so appointed, while he holds office as a deputy member— Appointments during absences, etc.
- 30 (a) shall have and may exercise and discharge the powers, authorities, duties and functions of the member of whom he is the deputy; and
- (b) if he is not otherwise a member, shall be deemed to be a member.

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

7. (1) During the illness or absence of the Chairman, the Deputy Chairman shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed on the Chairman by or under this Act. Deputy Chairman.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman, and all acts or things done or omitted by the Deputy Chairman while acting as Chairman shall have the same consequences as if they had been done or omitted by the Chairman.

8. (1) A full-time member shall devote the whole of his time to the duties of his office. Full-time members.

(2) A full-time member is entitled to be paid—

15 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

9. A part-time member is entitled to be paid such— Part-time members.

20 (a) fees for attending meetings of the Authority; and

(b) travelling and subsistence allowances,

as the Minister may from time to time determine in respect of him.

10. (1) A member shall be deemed to have vacated his office if— Vacation of office.

(a) he dies;

25 (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

30 (c) he absents himself from duty for a period exceeding 14 consecutive days, where he is a full-time member, or from 3 consecutive meetings of the Authority, where he is a part-time

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- 5 member, except in either case on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless his absence is occasioned by illness or other unavoidable cause;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 10 (e) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- 15 (f) he resigns his office by writing under his hand addressed to the Governor, where he is a full-time member, or to the Minister, where he is a part-time member;
- (g) he attains the age of 70 years;
- 20 (h) he is removed from office by the Governor, where he is a full-time member, or by the Minister, where he is a part-time member;
- (i) being a full-time member, he engages during his term of office in any paid employment outside the duties of his office; or
- (j) being the part-time member referred to in clause 1 (1) (g), he ceases to be an officer of the Department.
- 25 (2) For any cause which appears to him sufficient—
- (a) the Governor may remove a full-time member from office; and
- (b) the Minister may remove a part-time member from office.

11. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a member and a member shall not, as a member, be subject to that Act during his term of office as a member.

Effect of certain other Acts.

35 (2) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member of the Authority or from accepting and retaining any remuneration, allowances, expenses or fees payable to him as a part-time member under clause 6 or 9.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

12. (1) Where a person was, immediately before his appointment as a full-time member, an officer of the Public Service and ceases to be a full-time member otherwise than pursuant to clause 11 (1) (paragraph (f) excepted), he shall, if he has not attained the age of 60 years, be appointed to a position in the Public Service not lower in classification or salary than that which he held immediately before his appointment.

Saving of certain rights of full-time members.

(2) Where a full-time member was, immediately before his appointment, an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, he shall retain any rights which have accrued or are accruing to him as such an officer or employee and he shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be such an officer or employee during his service with the Authority, and for the purposes of this subclause his service as such a member shall be deemed to be service for the purposes of that Act and the Public Service Act, 1979.

(3) Where a full-time member contributes to a fund or account as referred to in subclause (2) of this clause, the Authority shall pay to the State Superannuation Board such amounts as would have been payable to that Board if that full-time member had remained an employee within the meaning of the Superannuation Act, 1916, and had continued to be employed by the employer by whom he was employed immediately before his appointment as such a member and as if he were receiving from that employer the same remuneration as is being paid to him under the Statutory and Other Offices Remuneration Act, 1975.

(4) A full-time member shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13. (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Authority.

Procedure at meetings of Authority.

(2) The Minister shall call the first meeting of the Authority in such manner as he thinks fit.

(3) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the other full-time member, shall preside at any meeting of the Authority.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(4) Four members, of whom at least 1 shall be a full-time member, shall form a quorum and any duly convened meeting of the Authority at 5 which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(5) The person acting as chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative 10 vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

(7) The Authority shall cause full and accurate minutes to be kept 15 of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting as soon as practicable after the date on which it was held.

14. (1) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other 20 person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject the member, or that person, personally to any action, liability, claim or demand whatsoever. Liability of members, etc.

(2) Nothing in subclause (1) of this clause shall exempt any member 25 from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which the member authorised or joined in authorising.

Dairy Industry Marketing Authority.

SCHEDULE 3.

Sec. 53.

CONSTITUTION AND PROCEDURE OF PRICING COMMITTEE.

1. (1) Subject to subclause (2) of this clause, the Pricing Committee shall consist of 3 members being the 3 members of the Authority appointed by the Governor. Members of Pricing Committee.

(2) The part-time member of the Authority referred to in clause 1 (1) (g) of Schedule 2 shall, during the absence or illness of any member of the Pricing Committee, be a member of the Pricing Committee, unless a person holds office, pursuant to clause 6 of Schedule 2, as a deputy of that absent or ill member.

2. (1) The procedure for the calling of meetings of the Pricing Committee and for the conduct of business at those meetings shall, subject to this clause, be as determined by the Pricing Committee. Procedure at meetings of Pricing Committee.

(2) The Minister shall call the first meeting of the Pricing Committee in such manner as he thinks fit.

(3) The Chairman of the Authority or, in his absence, the Deputy Chairman of the Authority shall be the chairman of the Pricing Committee and shall preside at any meeting of the Pricing Committee.

(4) The 3 members of the Pricing Committee shall form the quorum for its meetings.

(5) The person acting as chairman at any meeting of the Pricing Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Pricing Committee at which a quorum is present shall be the decision of the Pricing Committee.

Dairy Industry Marketing Authority.

SCHEDULE 4.

Sec. 107.

REPEALS AND AMENDMENT OF ACTS.

PART 1.

REPEALS.

5		Column 1.	Column 2.
Year and number of Act.		Short title of Act.	Extent of repeal.
10	1915, No. 45 ..	Dairy Industry Act, 1915 ..	The whole Act.
	1932, No. 55 ..	Dairy Industry (Amendment) Act, 1932.	The whole Act.
	1937, No. 35 ..	Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 45, 1915.
15	1938, No. 28 ..	Dairy Industry (Amendment) Act, 1938.	The whole Act.
	1940, No. 31 ..	Dairy Industry (Amendment) Act, 1940.	The whole Act.
	1950, No. 16 ..	Dairy Industry (Amendment) Act, 1950.	The whole Act.
20	1951, No. 60 ..	Dairy Industry (Amendment) Act, 1951.	The whole Act.
	1955, No. 48 ..	Dairy Industry (Amendment) Act, 1955.	The whole Act.
25	1960, No. 42 ..	Dairy Industry (Amendment) Act, 1960.	The whole Act.
	1962, No. 40 ..	Dairy Industry (Amendment) Act, 1962.	The whole Act.
	1970, No. 29 ..	Dairy Industry Authority Act, 1970.	The whole Act.
30	1970, No. 52 ..	Supreme Court Act, 1970 ..	So much of the Second Schedule as amended Act No. 29, 1970.
	1972, No. 41 ..	Supreme Court (Amendment) Act, 1972.	So much of the Second Schedule as relates to Act No. 29, 1970.
35	1972, No. 63 ..	Health Commission Act, 1972.	So much of the Schedule as amended Act No. 45, 1915, and Act No. 29, 1970.
	1973, No. 9 ..	District Court Act, 1973 ..	So much of Schedule 2 as amended Act No. 29, 1970.
	1973, No. 23 ..	Dairy Industry (Amendment) Act, 1973.	The whole Act.
40	1973, No. 61 ..	Dairy Industry Authority (Amendment) Act, 1973.	Section 3.
	1975, No. 3 ..	Dairy Industry Authority (Amendment) Act, 1975.	The whole Act.
45	1975, No. 9 ..	Dairy Industry (Amendment) Act, 1975.	The whole Act.
	1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amended Act No. 29, 1970.
50	1977, No. 1 ..	Dairy Industry Authority (Amendment) Act, 1977.	The whole Act.

*Dairy Industry Marketing Authority.*SCHEDULE 4—*continued.*PART 1—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
5 Year and number of Act.	Short title of Act.	Extent of repeal.
1977, No. 16 ..	Dairy Industry (Amendment) Act, 1977.	The whole Act.
10 1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amended Act No. 29, 1970.
1977, No. 129 ..	Dairy Industry Authority (Further Amendment) Act, 1977.	The whole Act.
15 1978, No. 67 ..	Metric Conversion Act, 1978	Section 7; so much of Schedule 1 as amended Act No. 45, 1915; Schedule 2.
20 1979, No. 43 ..	Dairy Industry Authority (Amendment) Act, 1979.	The whole Act.

PART 2.

AMENDMENT OF ACTS.

Column 1.		Column 2.
25 Year and number of Act.	Short title of Act.	Amendment.
30 1908, No. 31 ..	Pure Food Act, 1908.	Section 21 (2A)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
35 1916, No. 28 ..	Superannuation Act, 1916.	Schedule III— Omit "The Dairy Industry Authority of New South Wales in respect of any officer or employee transferred to the Milk Board in pursuance of the Milk Act, 1931, and subsequently transferred to the Dairy Industry Authority of New South Wales in pursuance of the Dairy Industry Authority Act, 1970."
40		

*Dairy Industry Marketing Authority.*SCHEDULE 4—*continued.*PART 2—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1.		Column 2.
5	Year and number of Act.	Short title of Act.
		Amendment.
10		Schedule III— Omit "The Dairy Industry Authority of New South Wales—in respect of any officer or employee not otherwise referred to in this Schedule".
15	1924, No. 50 ..	Metropolitan Water, Sewerage, and Drainage Act, 1924. Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970" insert instead "Dairy Industry Marketing Authority Act, 1979".
20	1938, No. 11 ..	Hunter District Water, Sewerage and Drainage Act, 1938. Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
25	1941, No. 55 ..	Agricultural Holdings Act, 1941. First Schedule, Part III— Omit from item (26) "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
30	1957, No. 28 ..	Attachment of Wages Limitation Act, 1957. Schedule— Omit "The Dairy Industry Authority of New South Wales", insert instead "Dairy Industry Marketing Authority".

SCHEDULE 5.

Sec. 108.

SAVINGS AND TRANSITIONAL PROVISIONS.

35 1. (1) In this Schedule—

"artificial stock breeding service" means the services provided and maintained by the former Authority pursuant to section 18 (1) (f) of the Authority Act for the purposes of the dairy industry and beef industry;

Interpre-
tation:
Sch. 5.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

“Authority Act” means the Dairy Industry Authority Act, 1970;

5 “former Authority” means the Dairy Industry Authority of New South Wales constituted under the Authority Act;

“Industry Act” means the Dairy Industry Act, 1915;

“Marketing Authority” means the Authority constituted by this Act;

“repealed Acts” means the Industry Act and the Authority Act;

“the commencement” means the commencement of this Act.

10 (2) Nothing in this Schedule affects the operation of section 8 of the Interpretation Act, 1897, with respect to this Act.

2. A reference in any other Act or in any by-law, regulation, ordinance or any other instrument or document whatever to the Milk Board or the former Authority shall be construed as a reference to the Marketing Authority. References to Milk Board and former Authority.

3. (1) On the commencement, any—

(a) proclamation published in the Gazette under section 5 of the Authority Act, being a proclamation in force immediately before the commencement, shall be deemed to be a proclamation under section 5; Saving of certain instruments.

20 (b) order made under section 7 of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order under section 98;

7 25 (c) direction contained in a notice served, before the commencement, on a dairyman under section 18 (1) (g), (h), (h1) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 37 (1) (b), (c), (d) or (f);

30 (d) direction contained in a notice served, before the commencement, on a person (other than a dairyman) under section 18 (1) (g), (h), (h1), (i), (j), (k) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 10 (1) (g), (a), 35 (b), (c), (d), (e) or (f);

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (e) certificate made out before the commencement by the former Authority under section 26 (3) of the Authority Act shall be deemed to be made out by the Marketing Authority under section 27 (4);
- 10 (f) order made and published in the Gazette under section 28 (4) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette, as the case may be, under section 22 (4);
- 15 (g) certificate of registration issued to a dairyman under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to the dairyman under section 32 (5);
- 20 (h) certificate of registration issued to a milk vendor under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to a dairy produce merchant under section 32 (5);
- 25 (i) instrument specifying a condition to which, pursuant to section 33 of the Authority Act, a certificate of registration referred to in paragraph (g) or (h) was subject immediately before the commencement, shall be deemed to be an instrument specifying a condition to which the certificate is subject pursuant to section 32 (5);
- 30 (j) certificate of registration sent, under section 5 (2) of the Industry Act, to a person in whose name premises were, immediately before the commencement, registered under that Act as a dairy produce factory or store, being a certificate of registration that had not been cancelled before the commencement, shall be deemed to be a certificate of registration issued to that person as a dairy produce merchant under section 32 (5) and the certificate of registration—
- 35 (i) unless sooner cancelled or surrendered under this Act shall be in force for the period of 2 years that commences with the commencement;
- 40 (ii) shall be deemed to have specified in it a condition to which it is subject pursuant to section 32 (5) prohibiting the holder of the certificate from treating or storing milk, dairy products or margarine at any place other than those premises; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (iii) where it was, immediately before the commencement, a certificate of registration of premises as a dairy produce factory bearing an endorsement made pursuant to section 5C of the Industry Act as to the purposes for which those premises might be used, shall be deemed to have specified in it a condition to which the certificate is subject pursuant to section 32 (5) prohibiting the holder of the certificate from using those premises for any other purpose;
- 10 (k) order made and published in the Gazette under section 36 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette under section 42 (1);
- 15 (l) order published in the Gazette under section 46 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall—
- 20 (i) if the order relates to milk of a class prescribed for the purposes of section 55 (7)—be deemed to be an order of the Prices Commission published under section 55 (9) (a); and
- (ii) if the order relates to any other milk—be deemed to be an order of the Minister published under section 55 (9) (b);
- 25 (m) order published in the Gazette under section 47 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order published in the Gazette under section 56 (1);
- 30 (n) order published in the Gazette under section 47 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be an order published under section 56 (8); or
- (o) certificate issued to a person under section 14 of the Industry Act—
- 35 (i) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully test milk or cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (c);

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (ii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (b); or
- 10 (iii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade milk supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (a).

(2) In an instrument which was made under either of the repealed Acts and which, by reason of the operation of subclause (1) of this clause, continues to have effect after the commencement—

- (a) a reference to the Authority Act or the Industry Act shall be construed as a reference to this Act; and
- (b) a reference to a provision of either of those Acts shall be construed as a reference to the corresponding provision of this Act.

20 4. On the commencement, any—

- (a) scheme prepared or implemented, or any quota allocated, before the commencement by the former Authority pursuant to section 18 (1) (d) of the Authority Act shall be deemed to be a scheme prepared or implemented, or a quota allocated, by the Marketing Authority pursuant to section 9 (1) (g);
- 25 (b) person appointed as an authorised agent by an instrument in force immediately before the commencement under section 18 (1) (e) of the Authority Act shall be deemed to be a person appointed as an authorised agent by an order under section 19 (1);
- 30 (c) authority conferred under section 18 (3) of the Authority Act on a person by an authorised agent, being an authority in force immediately before the commencement, shall be deemed to be an authority conferred under section 19 (2);
- 35 (d) committee established by the former Authority pursuant to section 20A (2) of the Authority Act shall be deemed to have been established pursuant to section 14 (2);

Saving of
other
matters.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (e) determination made or purporting to have been made under section 26 (2) of the Authority Act by the former Authority or any officer of the former Authority authorised for the purposes of that subsection shall be deemed to have been made under section 27 (2);
- 10 (f) investment made by the former Authority under section 67 of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 72;
- (g) advance made to the former Authority under section 68 (1) or (2) of the Authority Act shall be deemed to be an advance made to the Marketing Authority under section 73 (1) or (2);
- 15 (h) borrowing by the former Authority under section 69 of the Authority Act shall be deemed to be borrowing by the Marketing Authority under section 74;
- (i) fund established by the former Authority under section 70 of the Authority Act shall be deemed to be a fund established by the Marketing Authority under section 75;
- 20 (j) investment made by the former Authority under section 70 (3) of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 75 (3); or
- 25 (k) authorisation granted a person pursuant to section 83 (1) of the Authority Act by the former Authority, being an authorisation in force immediately before the commencement, shall be deemed to be an authorisation granted that person by the Marketing Authority under section 93 (1);

30 5. (1) A regulation made under either of the repealed Acts and in force immediately before the commencement shall, on the commencement, be deemed to be made under this Act if the regulation could have been made under this Act, had this Act been in force when it was made, whether or not it could only have been so made if a reference in the regulation to a provision of either of the repealed Acts were a reference to the corresponding provision of this Act.

Saving of certain regulations.

35 (2) A reference in a regulation continued in force after the commencement by the operation of subclause (1) of this clause to a provision of either of the repealed Acts shall be construed as a reference to the corresponding provision of this Act.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

6. (1) On and from the commencement—
- 5 (a) except as provided in clause 7, all real and personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority shall vest in and belong to the Marketing Authority;
- 10 (b) all money and liquidated or unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by the former Authority shall be money and liquidated or unliquidated claims payable to or recoverable by the Marketing Authority;
- 15 (c) all suits, actions and proceedings pending immediately before the commencement at the suit of the former Authority shall be respectively suits, actions and proceedings pending at the suit of the Marketing Authority and all suits, actions and proceedings so pending at the suit of any person against the former Authority shall be suits, actions and proceedings pending at the suit of that person against the Marketing Authority;
- 20 (d) subject to subclauses (3) and (4) of this clause, all contracts, agreements and undertakings entered into with, and all securities lawfully given to or by, the former Authority and in force immediately before the commencement shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Marketing Authority;
- 25 (e) the Marketing Authority may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of suits, actions and proceedings so referred to as the former Authority might have done but for the repeals and amendments effected by this Act;
- 30 (f) the Marketing Authority may enforce and realise any security or charge existing immediately before the commencement in favour of the former Authority and may exercise any powers thereby conferred on the former Authority, as if the security or charge were a security or charge in favour of the Marketing Authority;
- 35

Transfer
of assets,
liabilities,
etc., of
the former
Authority.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (g) all debts, money and claims, liquidated and unliquidated, that, immediately before the commencement, was or were due or payable by, or recoverable against, the former Authority shall be debts due and money payable by and claims recoverable against the Marketing Authority; and
- 10 (h) all liquidated or unliquidated claims for which the former Authority would, but for the repeals and amendments effected by this Act, have been liable shall be liquidated or unliquidated claims for which the Marketing Authority shall be liable.
- (2) No attornment to the Marketing Authority by a lessee from the former Authority shall be required.
- 15 (3) A reference in subclause (1) (d) of this clause to contracts, agreements and undertakings entered into with the former Authority does not include a reference to any contract, agreement or undertaking so entered into pursuant to section 12 (2), 50 or 63 of the Authority Act.
- 20 (4) All contracts, agreements and undertakings entered into with the former Authority with respect to the artificial stock breeding service, being contracts, agreements or undertakings that were in force immediately before the commencement, shall be deemed to be contracts, agreements and undertakings entered into with the Minister.
- 25 7. (1) The estate or interest, immediately before the commencement, of the former Authority in such of the land situated in the Parish of Coolangatta and County of Camden as is comprised in Certificates of Title Volume 5384 Folio 198 and Volume 13737 Folio 75 shall, on the commencement, vest in Her Majesty. **Vesting of certain land, etc., in the Crown.**
- 30 (2) All personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority for, or in connection with, the artificial stock breeding service shall, on the commencement, vest in and belong to Her Majesty.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

8. (1) On the commencement, any person who was, immediately before the commencement—
- 5 (a) an officer of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his appointment under section 14 (1) of that Act shall become and be an officer; or
- 10 (b) an employee of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his employment under section 14 (3) of that Act shall become and be a temporary employee,
- employed under Part IV of the Public Service Act, 1979, and, except as otherwise provided in clause 9, shall be subject to the Public Service Act, 1979.
- 15 (2) Subclause (1) of this clause does not apply to a person who, immediately before the commencement, was employed under section 14 (3) of the Authority Act for the purpose of, or for purposes connected with, the provision of services to a committee established by the former Authority and known as the "Dairy Promotion Council".
- 20 (3) A person to whom subclause (1) of this clause applies shall—
- (a) if he was, immediately before the commencement, employed by the former Authority solely in connection with the artificial stock breeding service, be deemed to have been appointed under the Public Service Act, 1979, as an officer of the Department; and
- 25 (b) if he was, immediately before the commencement, otherwise employed by the former Authority, be deemed to have been appointed under that Act as an officer of the Marketing Authority pursuant to section 16 (1).
9. (1) A person to whom clause 8 (1) applies shall—
- 30 (a) be paid salary or wages at a rate not less than the rate which was payable to him immediately before the commencement, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until that salary or those wages
- 35 is or are varied under the Public Service Act, 1979, or by an award or industrial agreement made or filed under the Industrial Arbitration Act, 1940;

Transfer
of officers
and
employees
of former
Authority.

Saving of
certain
rights.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (b) be entitled to any annual, deferred, recreation and sick leave accrued to him as an officer or employee of the former Authority but not taken at the commencement;
- 10 (c) have and enjoy rights and privileges with regard to extended leave not less favourable than those relating to long service or extended leave applicable to him as such an officer or employee immediately before the commencement and, for the purpose of his entitlement under this paragraph, his continuous service with the former Authority, immediately before the commencement, shall be deemed to be service in the Public Service; and
- 15 (d) retain any rights that, immediately before the commencement, had accrued or were accruing to him under the Superannuation Act, 1916, and, if he was, immediately before the commencement, a contributor within the meaning of that Act shall continue to be a contributor within the meaning of that Act.
- 20 (2) Except as otherwise provided by this clause, where any condition of employment of any person to whom clause 8 (1) applies was regulated, immediately before the commencement, by any award or industrial agreement made or filed under the Industrial Arbitration Act, 1940, and applicable to him as an officer or employee of the former Authority, being a condition which does not conflict with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, the condition
- 25 shall continue to apply to him until it is regulated by or under the Public Service Act, 1979, or by an award or industrial agreement so made or filed.
- 30 (3) Where any dispute arises as to whether an award or industrial agreement regulating any such condition as is referred to in subclause (2) of this clause conflicts with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, that Act or those regulations, as the case may be, shall prevail.
- (4) A person to whom clause 8 (1) applies shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

10. (1) Where, immediately before the commencement, an appeal is pending before, or could have been made to, the Crown Employees Appeal Board by a person who on the commencement becomes an officer under the Public Service Act, 1979, by the operation of clause 8 (1), that appeal may—
- Pending appeals to Crown Employees Appeal Board.
- (a) where it was pending, be continued or completed; or
- 10 (b) where it is made after the commencement, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,
- and may be determined by the Crown Employees Appeal Board.
- (2) The determination of the Crown Employees Appeal Board referred to in subclause (1) of this clause shall be given effect to by the
- 15 Public Service Board.
11. Notwithstanding section 70 (8), where the commencement occurs after 31st March in any year, a reference in section 70 to the financial year of the Marketing Authority shall, in relation to the first statement of accounts of the Marketing Authority, be construed as a reference to the
- 20 period from and including the commencement up to and including 30th June secondly succeeding the commencement.
- Extra-ordinary accounting period.
12. Where the commencement occurs after 31st March in any year, the Marketing Authority shall be deemed to have complied with the duty imposed upon it by section 97 (1) with respect to the preparation and
- 25 furnishing of a report upon its operations and activities as soon as practicable after 30th June next succeeding the commencement if it includes in the report required by that subsection to be prepared and furnished by it as soon as practicable after 30th June secondly succeeding the commencement a report upon its operations and activities during the period from
- 30 and including the commencement up to and including 30th June next succeeding the commencement.
- First annual report.
13. On the commencement—
- (a) the Marketing Authority shall cause such of the records maintained by the former Authority as relate to the artificial stock breeding service to be forwarded to the Director-General of the
- 35 Department; and
- Transfer of certain records.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) the Director-General of the Department shall cause such of the records maintained by the Department as relate—
- 5 (i) to the registration immediately before the commencement, of premises under the Industry Act; and
- (ii) to certificates issued for the purposes of section 14 of the Industry Act, being certificates in force immediately before the commencement,
- 10 to be forwarded to the Marketing Authority.
14. (1) The Minister may, by instrument in writing, extend the term of office as a member of the Dairy Industry Authority of New South Wales of a person holding office as such a member immediately before the date of assent to this Act by reason of his having been elected at an election held for the purposes of section 8 (2) (d) of the Dairy Industry Authority Act, 1970. Power to extend certain terms of office.
- (2) Notwithstanding section 8 (4) of the Dairy Industry Authority Act, 1970, a person whose term of office is extended by an instrument executed under subclause (1) of this clause shall, subject to that Act,
- 20 continue to hold his office as a member of the Dairy Industry Authority of New South Wales until, but excluding—
- (a) the day, occurring not later than 6 months after the date of assent to this Act, specified in the instrument as the last day up to which his term is extended; or
- 25 (b) the day appointed and notified pursuant to section 2 (2) of this Act,
- whichever first occurs.
15. (1) For the purposes of constituting, before the commencement, the panels referred to in clause 1 (1) of Schedule 2— Voting at elections before commencement.
- 30 (a) a registered dairyman, within the meaning of the Authority Act, shall be eligible to vote at an election held pursuant to clause 1 (1) (b) (i) and (f) (i) of that Schedule;
- (b) a registered milk vendor, within the meaning of the Authority Act, who is, by the certificate of registration held by him under that Act, authorised to sell milk from a vehicle, shall be eligible
- 35 to vote at an election held pursuant to clause 1 (1) (d) (i) of that Schedule; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (c) a person (not being a registered dairyman or registered milk vendor, within the meaning of the Authority Act) holding a certificate of registration that is in force after having been sent to him under section 5 (2) of the Industry Act by reason of his being a person in whose name premises were registered under that Act as a dairy produce factory (other than a person holding any such certificate of registration bearing an endorsement under 10 section 5c of that Act specifying that the premises are to be used only for the manufacture of margarine, within the meaning of this Act), shall be eligible to vote at an election held pursuant to clause 1 (1) (e) (i) of that Schedule.
- 15 (2) Where a person who is eligible to vote at an election by reason of subclause (1) (a), (b) or (c) of this clause holds 2 or more certificates of registration under either of the repealed Acts, the holding of each of which qualifies him to vote at the election, he shall be entitled to cast a separate vote in that election in respect of each of those certificates of registration.

DAIRY INDUSTRY MARKETING AUTHORITY BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Stamp Duties (Dairy Industry Marketing Authority) Amendment Bill, 1979, and the Statutory and Other Offices Remuneration (Dairy Industry Marketing Authority) Amendment Bill, 1979, are cognate with this Bill.

The principal objects of this Bill are—

- (a) to constitute the Dairy Industry Marketing Authority ("the Authority") and to define its powers, authorities, duties and functions with respect to milk, dairy products and margarine;
- (b) to provide for regulation of the supply and treatment of milk and of the production and storage of milk, dairy products and margarine; and
- (c) to enable the fixing of certain prices for milk and certain dairy products.

Part I of the proposed Act contains clauses 1-6. The Part contains provisions relating to the short title, commencement, arrangement and interpretation of the proposed Act. Clause 5 provides for amendment of the definition of milk for the purposes of the proposed Act. Clause 6 contains savings provisions in respect of certain Acts, rules, regulations, ordinances and by-laws.

Part II of the proposed Act contains clauses 7-20 and deals with the constitution and powers of the Authority and with certain administrative matters.

Division 1 provides for the constitution of the Authority. It is to be a statutory corporation which represents the Crown. It is to be subject to the control of the Minister. It is to consist of 3 full-time members appointed by the Governor and 4 part-time members appointed by the Minister. Clause 7 (3) and Schedule 2 govern its constitution and procedure.

Division 2 imposes responsibilities and powers on the Authority. Clause 8 provides that the Authority is charged with the regulation and control of the quality, supply and distribution of milk, and the production, quality and storage of dairy products and margarine, for the purposes of ensuring the wholesomeness and purity of milk, dairy products and margarine. Clause 9 specifies the general powers of the Authority (which include the powers to establish and maintain laboratories, to devise and initiate improved methods of dealing with milk, dairy products and margarine, to devise and initiate means to eliminate wasteful practices, to publish reports, to establish grades, classes and descriptions of milk, dairy products and margarine, to ensure that a retail supply of milk is available to consumers, and to prepare and implement schemes for the purpose of determining the quantities of milk to be accepted

by the Authority and the prices to be paid therefor); imposes upon the Authority a duty to report to the Minister upon matters connected with the exercise of those powers and the administration of the proposed Act; and enables the Authority to make a payment to a person in respect of the cancellation, or any reduction, of a milk quota allocated to him pursuant to a scheme of the Authority. For the purpose of preserving public health (clause 10) and for the purpose of maintaining equipment, used in the supply of milk, dairy products or margarine, in a fit condition (clause 11), the Authority is empowered to direct, by notice in writing, any person engaged in the supply, carriage or sale of milk, dairy products or margarine to do, or not to do, such things as are specified in the notice; and any person upon whom such a notice is served is required to comply with any direction contained in that notice. Clause 12 empowers the Authority to seize and destroy milk, dairy products or margarine where it believes the milk, dairy products or margarine to be contaminated and unfit for human consumption. Clause 13 enables the Authority to engage in certain trading activities. Clause 14 enables the Authority to engage in certain promotional activities and, for that purpose, to establish an advisory committee. Clause 15 empowers the Authority to take samples of milk, dairy products, margarine and certain other substances for the purposes of the proposed Act.

Division 3 relates to administrative matters. Clauses 16 and 17 provide for the appointment of officers and employees for the purposes of the proposed Act and empower the Authority to make use of the services of staff employed in Government Departments or statutory bodies. Clause 18 enables the Authority to delegate certain of its functions. Clause 19 enables the Authority to appoint authorised agents for the purpose of carrying out certain functions specified in the instruments by which they are appointed. Clause 20 enables the Authority to appoint certain officers and specifies the powers they may exercise for the purposes of the proposed Act (including the powers to enter and search certain premises, to open containers, to take copies of documents and to require certain persons to produce certain documents or answer certain questions).

Part III of the proposed Act contains clauses 21-31 and deals with the regulation of the milk supply in New South Wales.

Division 1 vests all milk supplied for human consumption or for use in the manufacture of dairy products in the Authority (clause 21), and renders void certain contracts relating to the supply of milk (clause 22). Clause 23 confines the claims that may be brought in respect of milk delivered to the Authority to claims for money. For the purposes of the Pure Food Act, 1908, milk in the possession of a registered dairyman is deemed to be milk in his possession for sale, and the delivery of milk by a registered dairyman to the Authority is deemed to be a sale of that milk by him to the Authority (clause 24).

Division 2 deals with the delivery of milk to the Authority. Clause 25 empowers the Authority to accept delivery from a registered dairyman of such quantity of milk, at such places and during such periods as may be determined by the Authority, and to dispose of such milk; empowers persons from whom delivery of milk is not accepted by the Authority to dispose of that milk in such manner as is authorised by the Authority; and creates an offence in respect of the unauthorised disposal of milk. Clause 26 requires a person who delivers milk to the Authority to notify the Authority of any encumbrance to which the milk is subject. Clause 27 contains provisions as to the conclusive nature of certain determinations relating to milk accepted by the Authority and of certificates relating to those determinations.

Division 3 deals with payments by the Authority in respect of milk vested in it pursuant to the provisions of Division 1. Clause 28 provides that the Authority shall, out of the proceeds of milk disposed of by it, make provision for certain expenses and a sinking fund in respect of any loan raised by it, and make payments to dairymen for milk accepted by it from them. Payments for milk accepted by the Authority for human consumption or for use in the production of dairy products are to be calculated in accordance with orders to be made under clause 55 (9) of the proposed Act. Clause 29 enables the Authority to make advances on account of milk delivered to it. Clauses 30 and 31 limit the liability of the Authority in certain respects.

Part IV of the proposed Act contains clauses 32-52 and deals with the regulation of the production of milk, dairy products and margarine.

Division 1 provides for the registration of dairymen and dairy produce merchants (clauses 32-34). Clause 35 contains special provisions concerning the registration of persons engaged in interstate activities relating to milk.

Division 2 provides for the regulation of dairy premises. Clauses 36-40 confer certain powers that may be exercised, for the purposes of the proposed Act, by officers appointed under clause 36 (including the powers to take, without payment, samples of milk and to direct certain persons to do certain things (clauses 37 and 38); to enter and search certain premises, to open containers and to require certain persons to produce certain documents or answer certain questions (clause 39); and to seize and destroy milk which is contaminated and unfit for human consumption (clause 40)). These provisions create offences relating to obstructing or failing to comply with the requests or directions of an officer appointed under clause 36.

Division 3 provides for the regulation of the quality of milk and dairy products. Clause 41 requires that certain milk be treated and bottled by certain methods. Clause 42 requires a medical practitioner to notify certain persons in prescribed circumstances where he is treating a person for an infectious disease. Clause 43 provides for the treatment and disposal of putrescent cream. Clause 44 creates an offence relating to the improper storage of milk, dairy products or margarine.

Division 4 imposes certain requirements in relation to the grading of milk, cream separated from milk, and dairy products and the testing of those substances for the purpose of determining their qualities. Clause 45 is an interpretation provision. Clauses 46 and 47 provide for the issue of certificates and permits authorising their holders to grade milk or cream or to test milk and cream. Clause 48 creates an offence if a person determines the grade of milk or cream or tests milk or cream in certain cases without the authority conferred by a certificate or permit. Clause 49 requires the grading of cream before it is used in the production of butter. Clause 50 requires the grading of milk before it is used in the production of other dairy products. Clause 51 creates an offence if butter, or any other dairy product for which a grade is prescribed, is put up at a dairy produce factory in a package that does not bear a statement of its grade. Clause 52 requires the occupier of a dairy produce factory to provide certain periodic statements to persons who supply milk or cream to the factory.

Part V of the proposed Act contains clauses 53-60 and deals with the fixing of certain dairy industry prices.

Division 1 relates to the Dairy Industry Pricing Committee. Clause 53 and Schedule 3 deal with the establishment, constitution and procedure of the Pricing Committee and clause 54 deals with the provision of officers and employees to assist in the exercise of its powers.

Division 2 relates to the pricing of milk and certain dairy products. Clause 55 enables the Pricing Committee to recommend the prices which should be fixed in respect of various matters relating to the supply of milk; enables the Minister or the Prices Commission (depending on the class of milk concerned) to approve or reject any such recommendation and to fix those prices; requires that the prices so fixed be published in the Gazette; and creates the offence of paying or charging for milk other than in accordance with the prices so fixed. Clause 56 enables the Pricing Committee to recommend certain wholesale prices which should be fixed for certain dairy products; enables the Minister to approve or reject any such recommendation and to fix those prices; requires that the prices so fixed be published in the Gazette; and creates the offence of paying or charging for those dairy products, at the wholesale stage, otherwise than in accordance with the prices so fixed.

Division 3 contains miscellaneous provisions. Clause 57 requires the Minister to conduct surveys in respect of the cost and income structure of the dairying industry in New South Wales. Clause 58 provides for the application of notifications made by the Minister or the Prices Commission to agreements in respect of the supply of milk. Clause 59 excludes the operation of other Acts in respect of the fixing of prices under Part V of the proposed Act. Clause 60 provides for the authentication of Pricing Committee documents.

Part VI of the proposed Act contains clauses 61–69 and deals with the acquisition of property by the Authority.

Division 1 relates to the acquisition of land by the Authority. Clause 61 provides that land may be acquired by lease, purchase, resumption or appropriation. Clause 62 provides for the manner in which land may be resumed or appropriated.

Division 2 relates to the acquisition of undertakings. Clause 64 empowers the Authority, with the approval of the Governor, to take over undertakings; enables the owner of the undertaking to require the Authority to purchase the plant and land owned by him in connection with the undertaking; specifies that the price at which such plant may be purchased shall not exceed the replacement value of that plant plus 10 per cent of that value and the price at which such land may be purchased shall be the market value of that land. Clause 65 provides for the valuation by the Authority of the undertaking (which valuation shall not include goodwill). Clause 66 provides for appeals against any such valuations made by the Authority. Clause 67 specifies that compensation shall carry interest at the rate of 4 per cent from the date upon which the Authority takes possession of the undertaking until the date that compensation is paid. Clause 68 requires the owner of an undertaking that is to be acquired to continue to carry on the undertaking, from the date upon which he is notified that the undertaking is to be taken over until the date notified by the Authority as the date upon which the Authority will take possession of the undertaking, in as satisfactory a manner as he has carried on the undertaking in the past. Clause 69 limits the price for which an undertaking may be purchased to the amount of compensation that would be payable were the undertaking to be taken over in accordance with Part VI.

Part VII of the proposed Act contains clauses 70–80 and deals with finance.

Division 1 (clauses 70 and 71) deals with the keeping and auditing of accounts.

Division 2 deals with investment and borrowing. Clause 72 enables the Authority to invest in certain securities. Clause 73 enables the Authority to obtain temporary accommodation from the Treasurer or from a bank. Clause 74 enables the

Authority to borrow money for certain purposes. Clause 75 requires the Authority to establish a reserve for loan repayment fund. Clause 76 enables the Authority to issue debentures, stocks and bonds. Clause 77 enables a trustee to invest money in his hands in stock inscribed by the Authority in the same manner as if the stock were a security authorised by the Trustee Act, 1925. Clause 78 enables the Authority to issue a new debenture or bond to replace a debenture or bond that has been lost, destroyed or defaced. Clause 79 protects a person advancing money to the Authority in situations where the borrowing, or the application of the money borrowed, is unlawful. Clause 80 provides that securities secured on the income of the Authority shall rank equally.

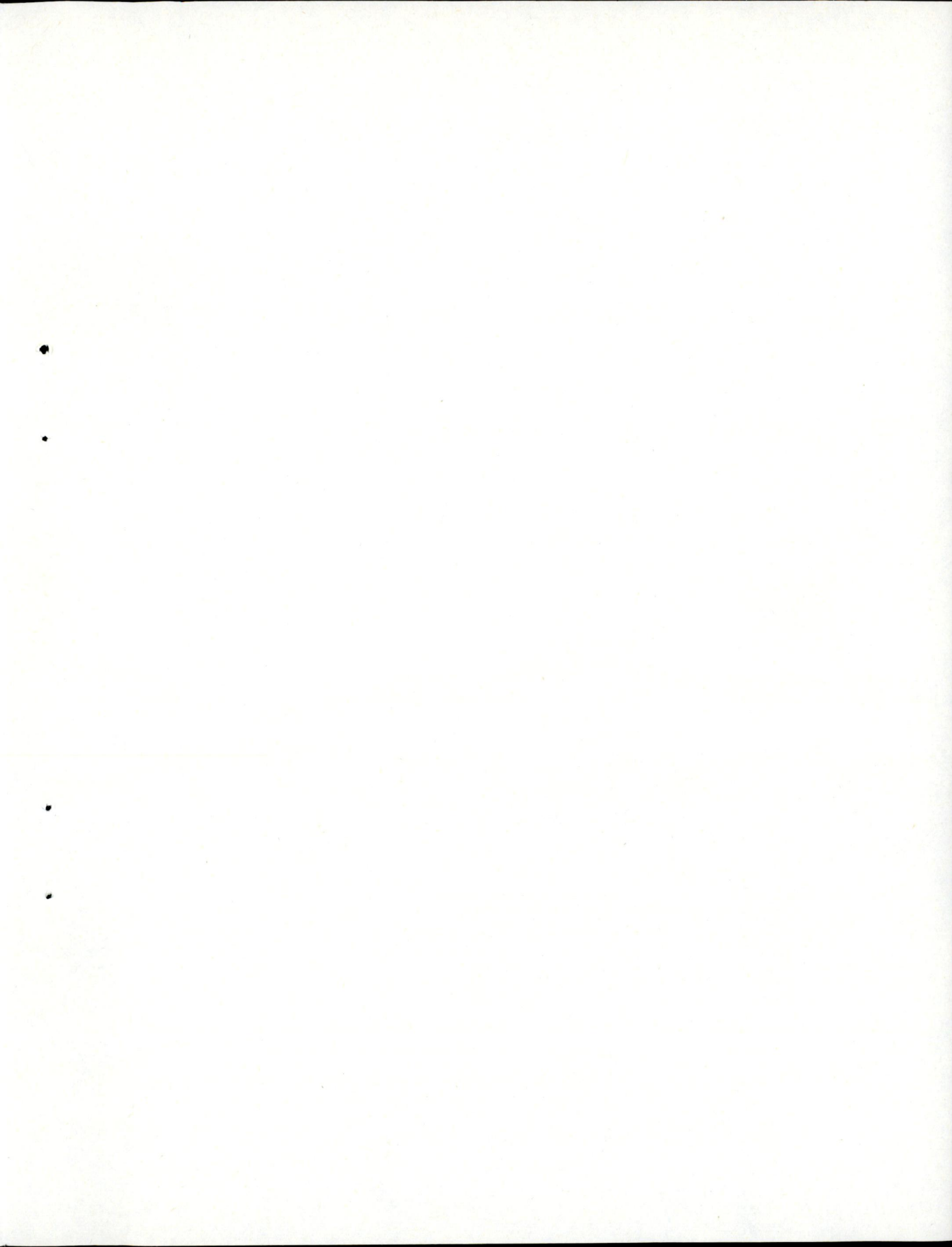
Part VIII of the proposed Act contains clauses 81–108 and deals with supplementary matters.

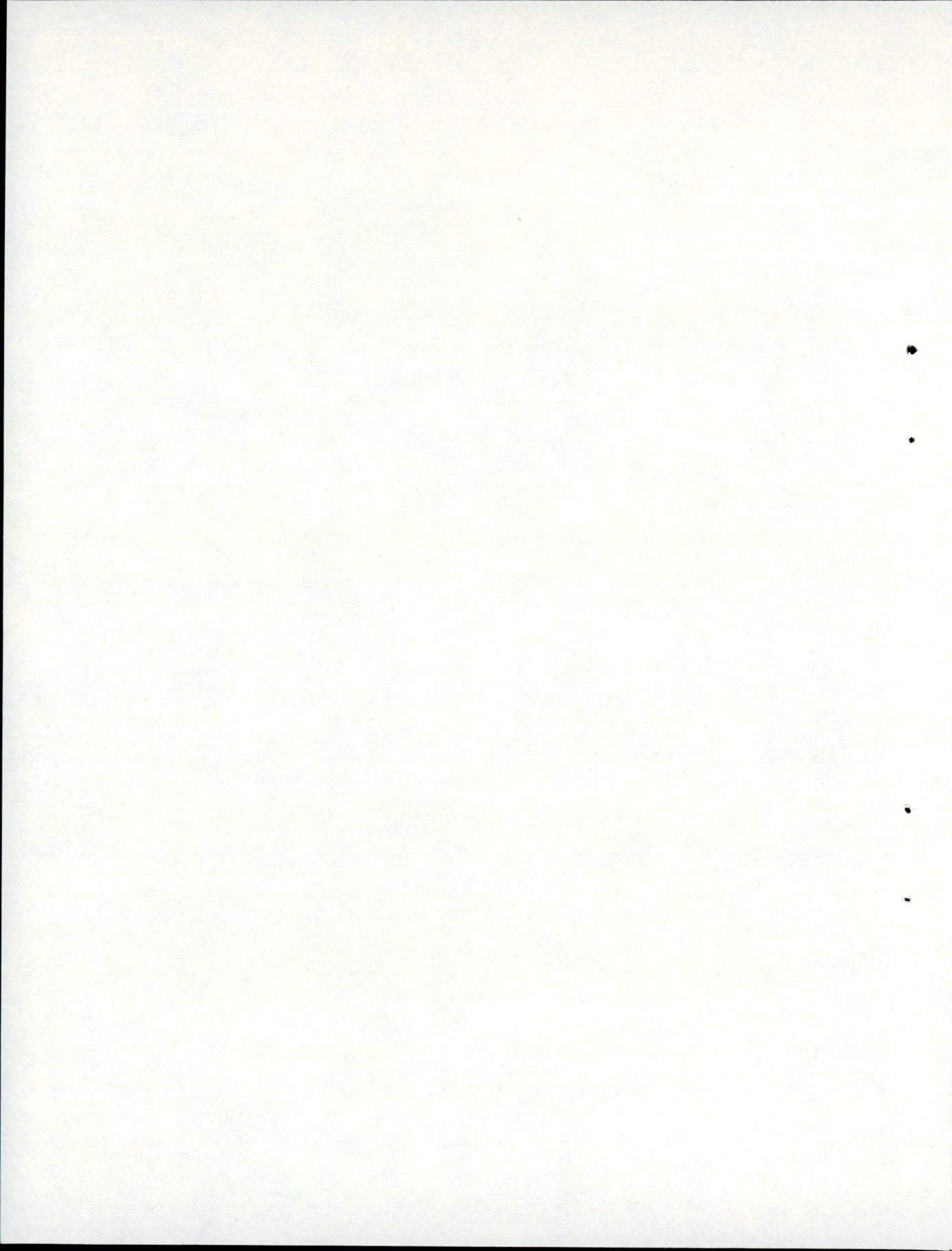
Division 1 confers additional powers upon authorised officers appointed under the proposed Act. Clause 82 empowers an authorised officer to demand certain persons to state their names and addresses. Clause 83 empowers certain persons to stop and search vehicles. Clause 84 creates the offence of impersonating an authorised officer or certain other persons.

Division 2 relates to the investigation of complaints by dairymen. Clause 86 empowers the Minister to nominate a Special Officer to carry out an investigation. Clause 87 specifies the grounds upon which, and the manner in which, a complaint may be made. Clause 88 provides for the action that may be taken in respect of a complaint. Clause 89 provides for the investigation of complaints, the procedure for such an investigation and the powers of the Special Officer conducting the investigation. Clause 90 enables any person who may be the subject of adverse comment as a consequence of the investigation to make submissions to the Special Officer conducting the investigation. Clause 91 relates to the action which may be taken as a consequence of a recommendation made by a Special Officer to the Minister.

Division 3 deals with proceedings for offences. Proceedings may be taken in a summary manner before a court of petty sessions (clause 92). Informations may be laid in the name of the Authority (clause 93). Clauses 94–96 deal with evidentiary matters.

Division 4 contains miscellaneous provisions. Clause 97 requires the Authority to furnish an annual report to the Minister. Clause 98 enables the Minister to exempt certain persons from all or any of the provisions of the proposed Act. Clause 99 provides for the fixing of fees and charges. Clause 100 provides for the recovery of those fees and charges. Clause 101 enables the Authority to insert conditions in certain agreements, authorities, licences or certificates and to fix a sum by way of liquidated damages for breaches thereof. Clause 102 provides for service of process on the Authority. Clause 103 empowers the Governor to make regulations under the proposed Act. Clause 104 provides for the issue of search warrants. Clause 105 creates offences in respect of the obstruction of officers, the giving of false information and the unlawful distribution of milk. Clause 106 imposes a maximum penalty of \$2,000 and imprisonment for 6 months for an offence against the proposed Act, together with a penalty of \$100 for every day the offence continues. Clause 107 and Schedule 4 provide for the repeal or amendment of certain Acts. Clause 108 and Schedule 5 bring certain savings and transitional provisions into effect.





**DAIRY INDUSTRY MARKETING AUTHORITY BILL,
1979**

No. , 1979.

A BILL FOR

An Act to constitute the Dairy Industry Marketing Authority and to define its powers, authorities, duties and functions; to provide for the regulation of the supply and treatment of milk and of the production of milk, dairy products and margarine; to enable the fixing of prices for milk and certain dairy products; to repeal the Dairy Industry Act, 1915, and the Dairy Industry Authority Act, 1970, and to repeal or amend certain other enactments; and for other purposes.

[MR F. J. WALKER *on behalf of* MR DAY—22 November, 1979.]

See also Stamp Duties (Dairy Industry Marketing Authority) Amendment Bill, 1979; Statutory and Other Offices Remuneration (Dairy Industry Marketing Authority) Amendment Bill, 1979.

Dairy Industry Marketing Authority.

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 :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dairy Industry Marketing Authority Act, 1979". Short title.

2. (1) This section, section 1, the provisions of this Act relating to the appointment of members of the Dairy Industry Marketing Authority to be constituted under this Act and the election of persons to the panels to be constituted in connection therewith, section 108, in its application to clause 14 of Schedule 5, and that clause shall commence on the date of assent to this Act. Commence-ment.

15 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Arrange-ment.

20 **PART I.—PRELIMINARY—ss. 1–6.**

PART II.—THE DAIRY INDUSTRY MARKETING AUTHORITY—

ss. 7–20.

DIVISION 1.—*Constitution of the Authority—s. 7.*

25 **DIVISION 2.—***Responsibilities and Powers, etc., of the Authority—ss. 8–15.*

DIVISION 3.—*Administrative Matters—ss. 16–20.*

Dairy Industry Marketing Authority.

- PART III.—REGULATION OF THE MILK SUPPLY—ss. 21–31.
- DIVISION 1.—*Vesting of Milk in the Authority*—ss. 21–24.
- DIVISION 2.—*Delivery of Milk to the Authority*—ss. 25–27.
- DIVISION 3.—*Payment for Vested Milk*—ss. 28–31.
- 5 PART IV.—REGULATION OF THE PRODUCTION OF MILK,
DAIRY PRODUCTS AND MARGARINE—ss. 32–52.
- DIVISION 1.—*Regulation of Dairymen and Dairy Produce
Merchants*—ss. 32–35.
- DIVISION 2.—*Regulation of Dairy Premises*—ss. 36–40.
- 10 DIVISION 3.—*Regulation of Quality of Milk and Dairy
Products*—ss. 41–44.
- DIVISION 4.—*Grading of Milk, Cream and Dairy Products*
ss. 45–52.
- PART V.—FIXING OF CERTAIN DAIRY INDUSTRY PRICES—
15 ss. 53–60.
- DIVISION 1.—*The Dairy Industry Pricing Committee*—ss.
53, 54.
- DIVISION 2.—*Prices of Milk and Declared Dairy Products*
—ss. 55, 56.
- 20 DIVISION 3.—*Miscellaneous*—ss. 57–60.
- PART VI.—ACQUISITION OF PROPERTY BY THE AUTHORITY
—ss. 61–69.
- DIVISION 1.—*Acquisition of Land*—ss. 61, 62.
- DIVISION 2.—*Acquisition of Undertakings*—ss. 63–69.
- 25 PART VII.—FINANCE—ss. 70–80.
- DIVISION 1.—*Accounts and Audits*—ss. 70, 71.
- DIVISION 2.—*Investment and Borrowing*—ss. 72–80.

Dairy Industry Marketing Authority.

PART VIII.—SUPPLEMENTARY—*ss.* 81–108.

DIVISION 1.—*Additional Powers of Authorised Officers—*
ss. 81–84.

5 DIVISION 2.—*Investigation of Complaints by Dairymen—*
ss. 85–91.

DIVISION 3.—*Proceedings for Offences—ss.* 92–96.

DIVISION 4.—*Miscellaneous—ss.* 97–108.

SCHEDULE 1.—DEFINITION OF MILK.

10 SCHEDULE 2.—CONSTITUTION AND PROCEDURE OF THE
AUTHORITY.

SCHEDULE 3.—CONSTITUTION AND PROCEDURE OF PRICING
COMMITTEE.

SCHEDULE 4.—REPEALS AND AMENDMENT OF ACTS.

SCHEDULE 5.—SAVINGS AND TRANSITIONAL PROVISIONS.

15 4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—^{Interpre-}
^{tation.}

“Authority” means the Dairy Industry Marketing Authority
constituted under section 7 (1);

20 “carrier” means any person (other than a dairyman or dairy
produce merchant who carries milk as a dairyman or as
part of his business as a dairy produce merchant) who
carries on business as a carrier of milk;

“certificate of registration” means a certificate of registration
issued under section 32 (5);

25 “Chairman” means Chairman of the Authority;

“conveyance” includes vessel and aircraft;

“cream” is that portion of milk in which, either through rest
or mechanical separation, the greater part of the milk fat
content of the milk has become concentrated;

Dairy Industry Marketing Authority.

“dairy premises” means any land or premises used for or in connection with the stalling, grazing, feeding or milking of cattle for the purpose of producing milk which is supplied or to be supplied for profit or sale;

5 “dairy produce factory” means any building or place at or in which any dairy product or margarine is produced or at or in which any dairy product or margarine is processed after its production;

“dairy produce merchant” means any person—

10 (a) who is the occupier of a milk store, dairy produce factory or dairy produce store;

(b) who, otherwise than as an employee or a carrier, receives or accepts milk to be supplied to another person; or

15 (c) who sells milk to another person;

“dairy produce store” means any building or place at or in which any dairy product or margarine is stored, whether in a cold chamber or otherwise, but does not include premises used for the sale by retail of any dairy product or margarine;

20

“dairy product” means any food, not being milk, in the production of which—

(a) milk is used; or

(b) any substance produced from milk is used;

25 “dairyman” means the occupier of dairy premises;

“Deputy Chairman” means Deputy Chairman of the Authority;

“food” has the meaning ascribed thereto in section 4 (1) of the Pure Food Act, 1908;

30 “full-time member” means a member appointed by the Governor pursuant to section 7 (2);

“grade”, in relation to milk, cream or a dairy product, means the prescribed grade to which the milk, cream or dairy product, as the case may be, belongs;

Dairy Industry Marketing Authority.

“margarine” means any food that—

- 5 (a) is a solid or semi-solid emulsion containing a mixture of water and an edible fat, water and an edible oil or water and an edible fat and an edible oil;
- (b) is made in imitation or semblance of butter; and
- (c) has a fat content none of which is derived from milk;

“member” means member of the Authority;

10 “milk” includes—

- (a) any liquid; and
- (b) any liquid of a class,
for the time being described in Schedule 1;

“milk fat” means the pure fat of milk;

15 “milk store” means any building or place at or in which milk is treated or stored, and includes any building and place at or from which milk is supplied, but does not include dairy premises;

20 “officer of the Authority” means any person employed pursuant to section 16 who is not an officer or temporary employee of the Department;

“package” includes anything in or by which a substance or an article is cased, covered, enclosed, contained or packed;

25 “part-time member” means a member appointed by the Minister pursuant to section 7 (2);

“Prices Commission” means the Prices Commission constituted under the Prices Regulation Act, 1948;

30 “Pricing Committee” means the Dairy Industry Pricing Committee constituted under section 53;

“produce”, in relation to a dairy product or margarine, includes manufacture the dairy product or margarine;

“registered”, in relation to—

35 (a) a dairyman, means holding a certificate of registration as a dairyman; or

Dairy Industry Marketing Authority.

(b) a dairy produce merchant, means holding a certificate of registration as a dairy produce merchant;

“regulations” means regulations made under this Act;

5 “secretary” means secretary of the Authority or the person for the time being acting as the secretary of the Authority;

10 “sell” means sell by wholesale or by retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale;

“stored” includes deposited;

“the Department” means the Department of Agriculture;

15 “treatment”, in relation to milk, includes the examination, cleansing, pasteurisation, processing by means of an ultra heat treatment method, modification, homogenisation, separation, sterilisation, alteration or manufacture into another form of milk or into a dairy product,
20 packaging, testing, analysing, grading, cooling, refrigerating, bottling and packing.

(2) A reference in this Act to the commencement of this Act is a reference to the day appointed and notified under section 2 (2).

25 (3) For the purposes of this Act—

(a) a reference to milk supplied for human consumption, as milk, or for use by humans, as milk, includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for human
30 consumption, as milk, or for use by humans, as milk; and

Dairy Industry Marketing Authority.

(b) a reference to milk supplied for use in the production of dairy products includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for use in the production of dairy products.

5

5. (1) The Governor may from time to time, by proclamation published in the Gazette, amend Schedule 1 by adding thereto or excluding therefrom the description of any liquid, or any class of liquids, specified in the proclamation.

Amendment
of Schedule
1.
cf. Act No.
29, 1970,
s. 5.

10 (2) Any proclamation made under this section may be amended or revoked by a subsequent proclamation.

(3) A proclamation made under this section shall—

(a) take effect on and from the date of publication of the proclamation or a later date specified in the proclamation; and

15

(b) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(4) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a proclamation under this section has been laid before it, disallowing the proclamation or any part thereof, the proclamation or part thereupon ceases to have effect.

20

(5) For the purposes of subsections (3) and (4), sitting days shall be counted, whether or not they occur during the same session.

25

6. Unless otherwise in this Act expressly provided, this Act shall not affect any provision of the Public Health Act, 1902, the Pure Food Act, 1908, the Factories, Shops and Industries Act, 1962, the Weights and Measures Act, 1915, the Local Government Act, 1919, or the Stock Diseases Act, 1923, or any rules, regulations, ordinances or by-laws made under any of those Acts, or take away powers vested in any person or body by any of those Acts or by any rules, regulations, ordinances or by-laws made thereunder.

Saving of
certain
Acts, etc.
cf. Act No.
29, 1970,
s. 6.

30

Dairy Industry Marketing Authority.

PART II.

THE DAIRY INDUSTRY MARKETING AUTHORITY.

DIVISION 1.—*Constitution of the Authority.*

7. (1) There is hereby constituted a corporation under the
5 corporate name of the "Dairy Industry Marketing Authority"
which—

Constitu-
tion of
Authority.
cf. Act No.
29, 1970,
s. 8.

- (a) shall have and may exercise and discharge the powers,
authorities, duties and functions conferred and imposed
upon it by or under this or any other Act;
- 10 (b) shall, for the purposes of any Act, be deemed to be a
statutory body representing the Crown; and
- (c) shall, in the exercise of its powers, authorities, duties
and functions (except when it makes a recommendation
or report to the Minister), be subject to the control and
15 direction of the Minister.

(2) The Authority shall consist of 3 full-time members
appointed by the Governor and 4 part-time members appointed by
the Minister.

(3) Schedule 2 has effect in relation to the constitution and
20 procedure of the Authority.

DIVISION 2.—*Responsibilities and Powers, etc., of the Authority.*

8. The Authority is hereby charged with the regulation and
control of—

Principal
responsi-
bility.
cf. Act No.
59, 1931,
s. 22; Act
No. 29,
1970, s. 17.

- (a) the quality, supply and distribution of milk; and
- 25 (b) the production, quality and storage of dairy products and
margarine,

for the purposes of ensuring the wholesomeness and purity of milk,
dairy products and margarine in the interests of public health.

Dairy Industry Marketing Authority.

9. (1) The Authority may—

Powers,
generally.

- 5 (a) establish and maintain laboratories and carry out re-
search and make investigations into matters relating to
milk, dairy products and margarine (including chemical,
physical, bacteriological and economic researches and
investigations);
- 10 (b) devise and initiate as far as may be practicable improved
methods of collecting, treating, carrying, storing,
distributing, delivering, supplying and using milk, dairy
products and margarine and of producing dairy products
and margarine;
- 15 (c) devise and initiate as far as may be practicable means to
prevent or eliminate wasteful, unnecessary or unhygienic
agencies, methods, practices, costs or charges in con-
nection with the collection, treatment, carriage, storage,
distribution, delivery, supply, use or sale of milk, dairy
products and margarine and with the production of dairy
products and margarine;
- 20 (d) publish reports, information and advice concerning the
collection, treatment, carriage, storage, distribution,
delivery, supply, preservation, use and sale of milk,
dairy products and margarine and the production of
dairy products and margarine, and by these and other
25 means encourage the consumption of milk, dairy
products and margarine;
- (e) subject to the regulations, establish grades, classes or
descriptions of milk, dairy products and margarine;
- 30 (f) take all such steps as may be reasonably practicable to
ensure that a retail supply of milk shall be available to
any consumers who may require it; and
- 35 (g) prepare and implement a scheme or schemes and, from
time to time, vary, replace or cancel any scheme
prepared or implemented by it, for the purpose of
determining the quantities of milk that may be delivered
to or will be accepted by the Authority or the quantities

cf. Act No.
59, 1931,
ss. 25, 39;
Act No. 29,
1970,
ss. 18, 18B,
20.

Dairy Industry Marketing Authority.

of any such milk for which payment will be made by the Authority at any particular price and, for the purposes of any such scheme, allocate quotas to any person producing milk for delivery to the Authority.

5 (2) The Authority shall, at such times as the Minister may require, report to and confer with the Minister upon all matters referred to in subsection (1), or generally affecting the administration of this Act, and recommend such amendments of the law as to the Authority may seem advisable.

10 (3) Where the Authority cancels or reduces a quota allocated by the Authority to a person in relation to the delivery to and acceptance of milk by the Authority, the Authority may, with the approval of the Minister (as to the giving or refusal of which he has an absolute discretion) pay, from the funds of the
15 Authority, to the person who, in the opinion of the Authority, is the holder of the quota, such amount as, subject to subsection (4), the Minister specifies when giving his approval.

(4) The maximum amount that may be paid under subsection (3) upon cancellation or reduction of a quota is—

20 (a) where the quota is cancelled—the product of \$4.7136 multiplied by the number that is the number of litres per week that comprised the quota; or

(b) where the quota is reduced—the product of \$4.7136
25 multiplied by the number that is the number of litres per week by which the quota is reduced.

10. (1) The Authority may—

(a) by notice in writing served on any person who has possession of any milk, dairy product or margarine which appears to the Authority to be deleterious to health, unwholesome or impure, direct that person not
30 to supply that milk, dairy product or margarine for

Directions
in the
interests of
health, etc.

Dairy Industry Marketing Authority.

consumption or use and to deal with or dispose of that milk, dairy product or margarine in such manner as may be specified in the direction;

- 5 (b) where an examination, a test or an analysis carried out on milk, a dairy product or margarine in the possession of any person indicates that that milk, dairy product or margarine is deleterious to health, unwholesome or impure or, where the Authority is of the opinion that any such milk, dairy product or margarine is, on its package, falsely or misleadingly described, by notice in writing served on that person, direct that person—
- 10
- 15 (i) not to supply that or other milk, dairy product or margarine for consumption or use until such time as the Authority, in the like manner, withdraws that direction; and
- (ii) to deal with or dispose of that or any other milk, dairy product or margarine that would, but for that notice, have been so supplied in such manner as may be specified in the notice;
- 20 (c) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine to other persons, direct that dairy produce merchant not to sell that milk, dairy product or margarine to other persons or to any class of persons specified in the notice, except during the periods or between the times specified in the notice;
- 25
- (d) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or person, specified in the direction, in the course of his business as a carrier;
- 30
- (e) by notice in writing served on any dairy produce merchant who sells milk or any dairy product or margarine, direct him not to use or display, in connection with his business as a dairy produce merchant, any advertisement or any description, sign, notice, device or representation in the nature of an advertisement, which
- 35

Dairy Industry Marketing Authority.

does not correctly describe or represent the milk, dairy product or margarine sold, or the services offered, by that dairy produce merchant, as the case may be;

5 (f) by notice in writing served on any dairyman or dairy produce merchant or other person concerned with the production of any milk, dairy product or margarine or the collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk or any dairy product or margarine, direct him to furnish such information or returns, including periodical information or returns, as is or are specified in the notice; and

10 (g) by notice in writing served on any dairy produce merchant, whether or not he is appointed an agent of the Authority, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality of milk, dairy products or margarine, provided for or prescribed by or under this or any other Act.

15 (2) The Authority may exercise any of its powers under subsection (1) (a), (b) or (f) whether or not the power is exercised in, or the thing in respect of which the power is exercised is in or of, New South Wales.

20 (3) A person on whom a notice is served under subsection (1) and who, without reasonable excuse, neglects or fails to comply with the direction contained in the notice is guilty of an offence against this Act.

11. (1) Where it appears to the Authority—

30 (a) that any substance, article, apparatus or other thing used by any dairy produce merchant in testing milk or producing or testing dairy products or margarine is unfit for the purpose for which it is intended to be used;

Directions
to take
remedial
measures.

Dairy Industry Marketing Authority.

- 81
- (b) that any substance, article, apparatus or other thing used for or in connection with milk, dairy products or margarine by a dairy produce merchant or carrier is unfit for that use;
- 5 (c) that any storage facility or any conveyance used by a dairy produce merchant or carrier for the purpose of the storage or carriage of milk, dairy products or margarine is unfit for that purpose; or
- 10 (d) that any milk store, dairy produce factory or dairy produce store is unfit for use for or in connection with an activity that a registered dairy produce merchant is authorised by his certificate of registration to carry on there,

the Authority may, by notice in writing served on the dairy produce
15 merchant, carrier or registered dairy produce merchant, as the case may be, direct—

- (e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;
- 20 (f) that substance, article, apparatus or other thing to be replaced or made fit for use for or in connection with milk, those dairy products or margarine;
- (g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk, those dairy
25 products or margarine; or
- (h) that milk store, dairy produce factory or dairy produce store to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the
30 direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on him under subsection (1) is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

12. Where the Authority believes on reasonable grounds—

Seizure of
contamin-
ated milk,
etc.

- 5 (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence at any milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease; and
- 10 (b) that any milk, dairy product or margarine, if so contaminated, would be unfit for human consumption,

the Authority may seize and destroy any milk, dairy product or margarine found at that milk store, dairy produce factory or dairy produce store at any time before the Authority is satisfied that there
15 is no longer any risk of the milk, dairy product or margarine so found being contaminated by that disease or may, in relation to any such milk, dairy product or margarine, exercise any other power conferred on the Authority by this Act.

13. (1) The Authority may, with the approval of the
20 Governor, exercise any one or more of the following powers, that is to say :— Trading
activities.

- (a) engage in the collection, treatment or wholesale or retail distribution of milk and any dairy product;
- 25 (b) purchase or acquire in accordance with Division 2 of Part VI, or lease or rent, the undertaking or portion of the undertaking of any dairy produce merchant;
- (c) establish and conduct cool stores;
- 30 (d) establish and conduct milk stores, dairy produce factories and dairy produce stores, distribute and sell milk and produce, and distribute and sell any dairy product, ice and any other food;
- (e) purchase milk and any dairy product for resale or use.

Dairy Industry Marketing Authority.

(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 or not the power is exercised in, or the thing in respect of which the power is exercised is in or of or produced in, New South Wales.

14. (1) The Authority may, by such means as it thinks fit, promote and encourage the production, supply, use, sale or consumption of milk and dairy products, Promotional activities.

(2) Without limiting the generality of subsection (1), the Authority may, with the approval of the Minister, establish a committee to advise it with respect to any or all of the matters referred to in that subsection.

(3) A committee established under subsection (2) shall consist of such persons as are approved by the Minister and the Authority may, from the funds of the Authority, pay a member of the committee such fees for attending meetings of the committee, and such expenses and allowances, as the Minister from time to time determines in respect of that member.

15. For the purposes of this Act, the Authority may take, without payment, samples of— Taking of samples.

- (a) milk, from any dairy premises, milk store or dairy produce factory, or from any conveyance, utensil or container; or
- (b) dairy products or margarine or any fat, oil or other substance commonly used in the production of dairy products or margarine, from any milk store, dairy produce factory or dairy produce store, or from any conveyance, utensil or container.

Dairy Industry Marketing Authority.

DIVISION 3.—*Administrative Matters.*

16. (1) Such officers and temporary employees as may be necessary for the administration of this Act may be employed under Part IV of the Public Service Act, 1979.

Employment of officers and employees.

5 **(2)** Notwithstanding subsection (1), the Authority may employ such casual or temporary employees as it deems necessary and may dismiss any such employees.

(3) Subject to the provisions of any award or industrial agreement made or filed under the Industrial Arbitration Act, 10 1940, that relate to the conditions of employment, including conditions relating to wages or other remuneration, of persons employed by the Authority under subsection (2), the Authority may determine those conditions.

17. (1) For the purposes of exercising and discharging the 15 responsibilities, powers, authorities, duties and functions conferred or imposed on the Authority by or under this Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged with that Department, make use of the services of any of the officers or 20 temporary employees of any Government Department.

Authority may make use of certain employees of the Crown and statutory bodies.

(2) The Authority may, for the like purpose with the approval of any statutory body and the Minister, and on such terms as may be arranged with the statutory body, make use of the services of any of the officers, servants or employees of that 25 statutory body.

18. (1) The Authority may, by instrument in writing under seal, delegate to a member or an officer of the Authority or to any officer or temporary employee of the Public Service employed in the Department the exercise or performance of such of the powers 30 (other than this power of delegation), authorities, duties or functions conferred or imposed on the Authority by or under this Act or any other Act as may be specified in the instrument of delegation.

Power of Authority to delegate. cf. Act No. 59, 1931, s. 22A.

Dairy Industry Marketing Authority.

(2) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation 5 by the member or officer to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions 10 delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Authority may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

15 (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Authority.

(6) A certificate or other instrument purporting to be 20 signed by a delegate of the Authority in his capacity as such a delegate shall in all courts be received in evidence as if it were a certificate or other instrument executed by the Authority under seal and, until the contrary is proved, shall be deemed to be a certificate or other instrument signed by a delegate of the Authority.

25 **19.** (1) The Authority may, by order in writing, appoint any person to be an authorised agent to act as the Authority's agent for the purpose of carrying out, in such circumstances as may be specified in the order, such of the powers, authorities, duties and functions of the Authority as may be so specified. Appointment of authorised agents.

30 (2) Where the Authority appoints an authorised agent under subsection (1) for the purpose of carrying out any powers, authorities, duties or functions of the Authority, those powers, authorities, duties and functions may be carried out by any employee, or agent, of that authorised agent who is authorised to 35 do so by that authorised agent.

Dairy Industry Marketing Authority.

20. (1) In this section, "authorised officer" means—

- (a) an officer of the Authority; or
- (b) an officer or a temporary employee of the Department,

appointed by order in writing of the Authority to be an authorised
5 officer for the purposes of this section.

Powers of
certain
authorised
officers.

(2) For the purposes of this Act, an authorised officer
may, at any reasonable time—

10 (a) subject to subsection (6), enter and, for as long as is
reasonably necessary for the exercise of his powers under
this section, remain in or on any dairy premises, milk
store, dairy produce factory, dairy produce store, place
or conveyance which is, or which the authorised officer
suspects on reasonable grounds is, being used for or
with respect to—

15 (i) the collection, treatment, carriage, storage,
distribution, delivery, supply, use or sale of milk;
or

20 (ii) the collection, production, treatment, carriage,
storage, distribution, delivery, supply, use or
sale of dairy products or margarine or of any
fat, oil or other substance of any kind commonly
used in the production of dairy products or
margarine,

25 or which is, or which he suspects on reasonable grounds
is, being used for the storage or custody of any accounts,
records, books, documents or any other thing whatsoever
relating to any such milk, dairy products, margarine, fat,
oil or other substance;

30 (b) search and inspect any dairy premises (other than such
part of any dairy premises as is used for the production
of milk), milk store, dairy produce factory, dairy
produce store, place or conveyance and examine any
milk, dairy product or margarine or any fat, oil or other
35 substance of any kind commonly used in the production
of dairy products or margarine, scales, measures, appar-
atus, churns, vats, appliances, containers, utensils,

Dairy Industry Marketing Authority.

accounts, records, books, documents, labels, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;

- 5 (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects on reasonable grounds contain, any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine;
- 10 (d) take copies of, or extracts or notes from, any such accounts, records, books, documents or labels;
- (e) request any person found in or on any milk store, dairy produce factory, dairy produce store, place or conveyance referred to in paragraph (a) or any registered dairy produce merchant—
- 15 (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
- 20 (a) which relate to, or which the authorised officer suspects on reasonable grounds relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy product, margarine, fat, oil or other substance of a kind commonly used in
- 25 the production of dairy products or margarine; and
- (b) which at the time of the request are in the possession or under the control of that person; and
- 30 (ii) to answer any question with respect to—
- (a) any such accounts, records, books, documents, labels or other things whatsoever; or
- 35 (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk, dairy

Dairy Industry Marketing Authority.

product, margarine, fat, oil or other substance of a kind commonly used in the production of dairy products or margarine.

5 (3) Any person who—

- (a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;
- 10 (b) resists or obstructs any authorised officer in the exercise of any such power;
- (c) fails to comply with any request by an authorised officer made under subsection (2) (e); or
- (d) furnishes to an authorised officer any information which is false or misleading in any material particular,

15 is guilty of an offence against this Act.

(4) A person shall not be guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (2) (e) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable
20 diligence have ascertained the answer to the question.

(5) A person is not excused from answering any question, if required to do so under subsection (2) (e), on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information furnished by him shall not be
25 admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (3).

(6) On applying for admission to any premises which he is empowered by subsection (2) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises
30 written evidence of his appointment as an authorised officer.

Dairy Industry Marketing Authority.

(7) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that portion of any dairy premises, milk store, dairy produce factory, dairy produce store, place or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(8) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

PART III.

REGULATION OF THE MILK SUPPLY.

DIVISION 1.—*Vesting of Milk in the Authority.*

21. (1) Milk—

- 15 (a) supplied for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (b) supplied for use in the production in New South Wales, of dairy products,

is absolutely vested in and is the property of the Authority.

20 (2) Milk vested in the Authority by the operation of subsection (1) and accepted by the Authority at a place where the Authority accepts milk is so vested freed from all mortgages, charges, liens, pledges, interests and trusts affecting it, and the rights and interests of every person in that milk are converted into
25 a claim for payment for the quantity of milk so accepted.

Dairy Industry Marketing Authority.

22. (1) Every contract, whether made before or after the commencement of this Act, or provision in any such contract, so far as it relates to milk referred to in section 21 (1), is and shall be deemed to have been void and of no effect as from the date upon
5 which the contract was made, except in so far as the contract relates to milk that has been accepted by the Authority or to the supply, sale or delivery of milk, the supply, sale or delivery of which is not prohibited under section 25 (6), or the contract had been completed before 1st July, 1970.
- Avoidance
of contracts
for sale of
milk.
cf. Act No.
59, 1931,
s. 30.
- 10 (2) Any provision in a contract, being a provision referred to in subsection (1), shall be deemed to be severable.
- (3) Any transaction or contract with respect to milk which is the subject-matter of any contract or provision of a contract declared by this section to be void shall also be void and
15 of no effect, and any money paid pursuant to any such contract or provision or to any such transaction shall be repayable.
- (4) The Minister may, by order published in the Gazette, declare that this section does not apply to or in respect of any contract specified in the order and made before 1st July, 1970,
20 and subsections (1) and (3) do not apply to or in respect of any contract specified in an order in force under this subsection.
23. (1) Subject to this section, no proceedings at law or in equity shall be brought against the Authority or any person acting under its authority by any person claiming to be entitled under any
25 bill of sale, mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, or the Co-operation Act, 1923) or other encumbrance over, of or upon any milk delivered by a dairyman to, and accepted by, the Authority, or claiming to be the true owner of any such milk, as
30 against the dairyman who delivered the milk.
- Remedy
against
Authority
confined
to claim
for account.
cf. Act No.
59, 1931,
s. 31.
- (2) Any person who but for subsection (1) would have been entitled to bring any such proceedings may adopt the delivery of the milk to the Authority as a delivery thereof by him to the

Dairy Industry Marketing Authority.

Authority, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law to the contrary, any such person shall not be entitled to make any such claim for an account of the payments due in respect of the milk, or any part of those payments, unless he has given prior notice in writing to the Authority in the form and
10 containing the particulars prescribed of the bill of sale, mortgage, charge, lien or other encumbrance, or the claim of ownership, and then only for such part of that money as has not been paid to any other person at the time of the receipt by the Authority of the notice.

15 **24.** Notwithstanding section 21 (1)—

(a) all milk produced by a registered dairyman, being milk in his possession or in the possession of some person on his behalf, shall, for the purposes of the Pure Food Act, 1908, be deemed to be in the possession of that dairyman
20 for the sale thereof within the meaning of that Act, and that Act and the regulations made thereunder shall apply accordingly; and

(b) every delivery of milk at a place where the Authority will accept milk shall, for the purposes of the Pure Food Act, 1908, be deemed to be a sale of that milk to the
25 Authority by the dairyman in whose name the milk was delivered, whether or not the milk is accepted wholly or in part by the Authority, and the provisions of that Act and of any regulations made thereunder shall apply
30 accordingly.

Application
of Pure
Food Act,
1908.

Dairy Industry Marketing Authority.

DIVISION 2.—Delivery of Milk to the Authority.

25. (1) A registered dairyman may, subject to the provisions of this Act, deliver to the Authority any milk vested in the Authority under section 21.

Delivery
and
acceptance
of milk.
cf. Act No.
59, 1931,
s. 27.

5 (2) Nothing in this Act shall be construed as requiring the Authority to accept all or any milk delivered to it by any person.

(3) The Authority may from time to time determine—

- 10 (a) the quantity of milk per week which may be supplied by dairymen to and accepted by the Authority at any place appointed by the Authority at which milk will be accepted;
- (b) the quantity of milk or the number of milkings per week either morning or afternoon which may be delivered by a dairyman to and accepted by the Authority;
- 15 (c) the places at which milk will be accepted by the Authority; and
- (d) the periods during which milk may be so delivered and accepted.

20 (4) Milk delivered to and accepted by the Authority may be disposed of by the Authority to dairy produce merchants or to other persons.

(5) Where any milk is not accepted by the Authority, the person who, but for section 21, would have been the owner of the milk—

- 25 (a) is entitled to dispose of that milk in any manner, and subject to any conditions, specified in an instrument, in writing, authorising him to do so issued to him by the Authority; and
- 30 (b) shall, unless the Authority otherwise determines and notifies him in writing before he disposes of the milk, be deemed to have been authorised to dispose of the milk in any manner, otherwise than by supplying it—

Dairy Industry Marketing Authority.

- (i) for human consumption, as milk, or for use by humans, as milk, in New South Wales; or
- (ii) for use in the production, in New South Wales, of dairy products.

5 (6) A dairyman who, except as authorised by subsection (5), supplies, sells or delivers milk vested in the Authority under section 21 to a person other than the Authority is guilty of an offence against this Act.

(7) A person—

- 10 (a) who buys or receives any milk knowing that it is supplied, sold or delivered in contravention of subsection (6); or
- (b) who buys by wholesale any milk at a price other than the price notified in respect of that milk by an order in force under section 55 (9),

15 is guilty of an offence against this Act.

(8) All milk delivered at a place where the Authority will accept milk shall be delivered in the name of the registered dairyman on whose dairy premises the milk was produced.

20 **26.** (1) Every person delivering milk to the Authority which is subject to any bill of sale, mortgage, charge, lien or encumbrance or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof (and whether the bill of sale, mortgage, charge, lien, 25 encumbrance or contract was made before or after the commencement of this Act) shall, within 1 month after the making thereof, give to the Authority a notice in writing in the prescribed form of the bill of sale, mortgage, charge, lien, encumbrance or contract.

Duty to give notice of encumbrances. cf. Act No. 59, 1931, s. 32.

30 (2) Any person wilfully guilty of a failure to comply with the provisions of this section is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

27. (1) For the purposes of this Act, and of any regulation or order made, or notice, certificate or other document issued, thereunder, milk shall be deemed not to have been accepted by the Authority except to the extent specified in a determination made 5 under subsection (2).

Determina-
tion of
quantity of
milk
accepted by
the
Authority.

(2) For the purposes of subsection (1)—

(a) the quantity or quantities of milk, or the quantity or quantities of milk of any grade, class or description, that is or are accepted by the Authority from any person 10 specified in the determination during any period so specified, at any time so specified or at any place so specified;

(b) the purpose or purposes for which a quantity or quantities of milk specified in the determination as 15 having been accepted by the Authority is or are or was or were used or to be used; or

(c) the conditions under which any quantity of milk specified in the determination as having been accepted by the Authority was thereafter collected, treated, carried, 20 stored, distributed, delivered or supplied,

is or are as the case may require—

(d) such quantity or quantities, in respect of that person, period, time or place or that grade, class or description;

(e) such purpose or purposes; or

(f) such conditions, 25

as may be determined by the Authority or by any officer of the Authority authorised by it for the purposes of this subsection.

(3) Any such determination may be made at any time after the expiration of the period or after the time referred to in 30 subsection (2) (a), whether or not the milk in respect of which the determination is made is milk specified in the determination as having been accepted by the Authority before or after the commencement of this Act.

Dairy Industry Marketing Authority.

(4) In any legal proceeding by or against the Authority, the Crown, the Government of New South Wales or any nominal defendant appointed under the Claims Against the Government and Crown Suits Act, 1912, a certificate by the Authority—

5 (a) to the effect that—

(i) no milk;

(ii) no milk of a specified grade, class or description;

(iii) a quantity of milk; or

10 (iv) a quantity of milk of a specified grade, class or description,

was, during a specified period or at a specified time, accepted by the Authority from a specified person at a specified place or stating the purpose or purposes for which no milk or a quantity of milk was so accepted;

15 or

(b) as to the conditions under which any quantity of milk accepted by the Authority was thereafter collected, treated, carried, stored, distributed, delivered or supplied,

20 shall be conclusive evidence of the matters specified therein and of the fact that the place so specified was a place at which the Authority would, during that period, accept milk and any such certificate shall not be questioned, reviewed or examinable in any court.

(5) A determination referred to in subsection (2) made
25 in relation to any milk, or a certificate under subsection (4) embodying any matters in respect of which any such determination has been made, shall have effect whether or not that milk was of any grade, class or description specified in the determination or certificate and whether or not any quantity or conditions under
30 which that milk was collected, treated, carried, stored, distributed, delivered or supplied or any purpose for which that milk was used was or were as specified in the determination or certificate.

Dairy Industry Marketing Authority.

(6) No proceedings shall be taken in any court in any circumstances in relation to any act or thing done or omitted to be done pursuant or purportedly pursuant to this section, whether in relation to the making of a determination under subsection (2) 5 by the Authority or an officer of the Authority or to the purported making of any such determination, or otherwise.

(7) Notwithstanding any other provision of this Act, the Authority or an officer of the Authority authorised by it for the purposes of subsection (2) may, in the exercise of its or his powers 10 under that subsection, make a determination specifying a purpose or purposes for which a quantity or quantities of milk specified in the determination as having been accepted by the Authority is or was used or to be used notwithstanding that the purpose or purposes so specified is or are different from the purpose or purposes for 15 which such milk is or was intended to be used or is or was actually used and any such determination shall not be rendered invalid by reason thereof.

DIVISION 3.—Payment for Vested Milk.

28. (1) The Authority shall, out of the proceeds of milk Payments to 20 disposed of by the Authority under this Act, make provision for— dairymen.

(a) expenditure incurred in the treatment, carriage, distribution and sale of the milk, the costs, charges and expenses incurred by the Authority, the Pricing Committee and the Department in the administration of this Act, other than Division 2 of Part IV, and any amounts necessary 25 to repay advances made to the Authority; and

(b) a sinking fund in respect of any loan raised by the Authority, and interest on any such advance or loan,

and, subject to this Act, shall, in accordance with subsection (2), make payments to each dairyman in respect of the milk accepted 30 from him.

(2) The Authority shall, at such times as it thinks fit, pay to each dairyman in respect of milk delivered by him to, and accepted by, the Authority—

Dairy Industry Marketing Authority.

- 5 (a) where that milk was accepted for human consumption, as milk, or for use by humans, as milk, an amount calculated at the rate of the minimum price notified in respect of that milk by an order in force under section 55 (9); and
- (b) where that milk was accepted by the Authority for use in the production, in New South Wales, of dairy products, an amount calculated at the rate of the minimum price notified by an order in force under section 55 (9)—
- 10 (i) in respect of milk supplied for that use; or
- (ii) in respect of the milk fat content of milk supplied for that use,
- whichever price is applicable or where either of those prices is applicable at the rate of either of those prices as
- 15 the Authority thinks fit.

(3) Where milk produced under a share-farming or partnership agreement is delivered to and accepted by the Authority, the Authority may in its discretion make payment to each of the parties to the agreement in accordance with their

20 interests in the milk delivered.

29. The Authority may make or arrange for the making of advances on account of milk delivered to the Authority, and any such advances and any payment made on account of any such milk may be made at such time or times, on such terms and

25 conditions and in such manner as the Authority may think fit.

Advances by Authority. cf. Act No. 59, 1931, s. 29.

30. Where the Authority in good faith and without negligence has made any payment—

(a) to a dairyman delivering or causing to be delivered any milk to the Authority or any person acting under its authority;

30 (b) to any person entitled or claiming to be entitled through such a dairyman; or

Authority not liable for payments made in good faith. cf. Act No. 59, 1931, s. 33.

Dairy Industry Marketing Authority.

(c) to any person on the order of such a dairyman or of a person referred to in paragraph (b),

the Authority shall not be answerable to any other person in respect of that payment for the milk or any part thereof, or in
5 any action or other proceedings, claim or demand whatsoever for damages or otherwise.

31. (1) If, before receiving notice of claim to any payment for milk vested in the Authority or to the chose in action or any part thereof the subject-matter of any such payment, the Authority
10 has in good faith and without negligence made that payment, in whole or in part, in accordance with the provisions of this Division, the Authority shall not, to the extent to which it has made that payment, incur any liability to the true owner of the milk or chose in action or any part thereof or to any person claiming
15 through, under or in trust for him.

Authority protected in certain cases. cf. Act No. 59, 1931, s. 34.

(2) This section does not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to the milk or chose in action the subject-matter or part of the subject-matter of any
20 claim for payment.

(3) In any proceedings taken in any court by any such dairyman, transferee or party in respect of any such milk or chose in action or part, the Authority may plead this section as a defence to the proceedings.

Dairy Industry Marketing Authority.

PART IV.

REGULATION OF THE PRODUCTION OF MILK, DAIRY PRODUCTS
AND MARGARINE.

5 DIVISION 1.—*Registration of Dairymen and Dairy Produce Merchants.*

32. (1) A dairyman who is not the holder of a certificate of registration as a dairyman is guilty of an offence against this Act.

Regis-
tration of
dairymen
and dairy
produce
merchants.
cf. Act No.
59, 1931,
s. 36.

(2) A dairy produce merchant—

10 (a) who is not the holder of a certificate of registration as a dairy produce merchant; or

(b) who, being the holder of a certificate of registration as a dairy produce merchant, carries on any activities relating to the production, treatment, storage, distribution, supply or sale of milk, dairy products or margarine other than activities which that certificate of registration authorises him to carry on,

15 is guilty of an offence against this Act.

(3) Except to the extent that any condition to which the certificate of registration is for the time being subject otherwise provides, a certificate of registration as a dairy produce merchant issued by the Authority authorises the holder to carry on only such activities as a dairy produce merchant as are specified in the certificate of registration.

25 (4) An application for a certificate of registration as a dairyman or dairy produce merchant shall—

(a) be made in or to the effect of the prescribed form; and

(b) be accompanied by the prescribed fee for making the application and for issuing the certificate of registration if the application is approved.

30

Dairy Industry Marketing Authority.

(5) The Authority may approve the application subject to such conditions as it thinks fit or refuse the application and, where it approves the application, shall issue to the applicant a certificate of registration as a dairyman or dairy produce merchant, 5 as the case may require.

(6) A certificate of registration shall, unless sooner cancelled or surrendered, be in force until a day specified in the certificate that is not less than 1 year or more than 2 years after the date of issue of the certificate by the Authority which date shall 10 also be specified in the certificate.

(7) Any conditions to which a certificate of registration is subject shall be specified in, or in a notice attached to, the certificate of registration when it is issued by the Authority and may include—

- 15 (a) conditions as to the grade, class or description of milk, dairy products or margarine which the holder of the certificate is authorised to produce, treat, store, distribute, supply or sell;
- 20 (b) conditions prohibiting the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area or in a manner specified in the certificate;
- 25 (c) conditions requiring the holder of the certificate to subject milk, dairy products or margarine produced, treated, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;
- 30 (d) conditions requiring the holder of the certificate to permit the Authority or any authorised officer within the meaning of section 20 or Division 2 of Part IV to exercise, in relation to that holder's activities as a dairyman or dairy produce merchant, any of the powers that the Authority or such an officer may exercise under Division 2 of Part II, Division 2 of Part IV or Division 1 35 of Part VIII; and

Dairy Industry Marketing Authority.

(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.

(8) The Authority may by notice in writing served on the holder of a certificate of registration vary the conditions to which the certificate is subject for the time being by altering or revoking any of those conditions or may, in like manner, impose conditions or additional conditions to which the certificate is subject.

(9) The holder of a certificate of registration who fails to comply with any condition to which the certificate is for the time being subject is guilty of an offence against this Act.

33. (1) The Authority may refuse to issue a certificate of registration to, or may cancel the certificate of registration issued to, any person—

Authority may refuse to issue certificate, etc.

(a) if he has been convicted of 2 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, dairy products or margarine;

(b) if, in the opinion of the Authority, he is not a fit and proper person to hold such a certificate;

(c) if, in the opinion of the Authority, any dairy premises, milk store, dairy produce factory, dairy produce store, conveyance or equipment occupied or used by him as a dairyman or dairy produce merchant are or is unsuitable;

(d) if—

(i) the certificate of registration is subject to a condition which prohibits the person from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and

Dairy Industry Marketing Authority.

- (ii) in the opinion of the Authority, the person has ceased to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area;
- 5 (e) if he does not have any qualification that he is required by the regulations to have; or
- (f) if, in the opinion of the Authority, it is necessary or desirable, in the public interest or to enable the Authority to effectively carry out or give effect to any of the provisions of this Act, to refuse to issue or to cancel
10 the certificate.

(2) 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 (3) Before cancelling a certificate of registration upon the grounds specified in subsection (1) (a), (b) or (d), the Authority shall, in the prescribed manner, forward a notice in writing to the holder of the certificate of the grounds upon which the Authority proposes to cancel the certificate.

20 (4) A person to whom any such notice has been forwarded or a person whose application for a certificate of registration has been refused upon either of the grounds specified in subsection (1) (a) or (b) may in the manner and within a time prescribed appeal against the cancellation or refusal to a court of
25 petty sessions held before a stipendiary magistrate.

(5) The court shall hear and determine the appeal and the decision of the court shall be final and shall be given effect to by
30 the Authority.

(6) The court hearing an appeal under this section shall not, for the purposes of that hearing, be bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

Dairy Industry Marketing Authority.

34. (1) Where—

Cancellation of certificate on cessation of use.

(a) a condition to which a certificate of registration is subject prohibits the holder of the certificate from producing, treating, storing, distributing, supplying or selling milk, dairy products or margarine otherwise than at a place or in an area specified in the certificate; and

5

(b) the holder of the certificate ceases to produce, treat, store, distribute, supply or sell milk, dairy products or margarine at that place or in that area, as the case may be,

10

he shall forthwith furnish a notice in writing to that effect to the Authority.

(2) Where the Authority receives a notice pursuant to subsection (1), it shall cancel the certificate of registration to which the notice relates.

15

(3) The holder of a certificate of registration who fails to comply with a requirement made of him by subsection (1) is guilty of an offence against this Act.

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

Registration in respect of certain interstate activities.

(a) pasteurising, sterilising or otherwise treating milk; or

(b) storing, distributing, supplying or selling milk,

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—

25

(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 32 (4) for a certificate of registration as a dairy produce merchant.

30

Dairy Industry Marketing Authority.

(2) The Authority may determine an application 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 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 33 shall be read as if—

- 10 (a) the words “in the opinion of the Authority”, wherever occurring, were omitted from subsection (1);
- (b) the words “the grounds specified in subsection (1) (a), (b) or (d)” were omitted from subsection (3) and the words “the ground specified in subsection (2) or any of the grounds specified in subsection (1)” were inserted
15 instead; and
- (c) subsections (4), (5) and (6) were omitted and the following subsections were inserted instead :—

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

- 20 (a) to issue him with a certificate of registration as a dairy produce merchant that authorises him to carry on only such activities as a dairy produce merchant as are specified in the certificate;
- 25 (b) to issue him with a certificate of registration as a dairy produce merchant subject to conditions; or
- (c) to vary the conditions to which his certificate of registration as a dairy produce merchant is subject for the time being or to impose conditions or additional conditions to which that
30 certificate is to be subject,

and a person—

- (d) notified pursuant to subsection (3); or

Dairy Industry Marketing Authority.

(e) whose application for a certificate of registration as a dairy produce merchant has been refused upon any of the grounds specified in subsection (1),

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 (5) Subject to subsection (6), a court of petty sessions to which an appeal is made under this section shall hear and determine the appeal.

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

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

(a) in the case of an appeal against a decision referred to in subsection (4) (a), (b) or (c), it was reasonably necessary in the interest of public health for that decision to be made; or

(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.

25 (8) The Authority shall give effect to the decision of a court to which an appeal is made under this section.

DIVISION 2.—Regulation of Dairy Premises.

36. In this Division, “authorised officer” means—

(a) an officer or a temporary employee of the Department;
or

Interpre-
tation:
Pt. IV;
Div. 2.

Dairy Industry Marketing Authority.

(b) an officer of the Authority,

appointed by order of the Director-General of the Department to be an authorised officer for the purposes of this Division.

37. (1) For the purposes of this Act, an authorised officer may— Powers of authorised officers, generally.

5 (a) take, without payment, samples of milk from any dairy premises, or from any conveyance, utensil or container;

10 (b) by notice in writing served on any dairyman, direct him to install and maintain such equipment, facilities and staff as are specified in the notice as being necessary for the effective maintenance of the standards of quality provided for or prescribed by or under this or any other Act for milk and dairy products;

15 (c) by notice in writing served on any person who has possession of any milk which appears to the authorised officer to be deleterious to health, unwholesome or impure, direct that person not to supply that milk for consumption or use and to deal with or dispose of that milk in such manner as may be specified in the direction;

20 (d) where an examination, a test or an analysis carried out on milk in the possession of any person indicates that the milk is deleterious to health, unwholesome or impure, by notice in writing served on that person, direct that person—

25 (i) not to supply any milk for consumption or use until such time as the Director-General of the Department or an authorised officer, in the like manner, withdraws that direction; and

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

Dairy Industry Marketing Authority.

(e) by notice in writing served on any carrier, direct him not to collect and carry milk from or to any place, area or person, specified in the direction, in the course of his business as a carrier; or

5 (f) by notice in writing served on any dairyman or other person concerned with the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, direct him to furnish such information or returns, including periodical information
10 or returns, as are specified in the notice.

(2) An authorised officer may exercise any of his powers under subsection (1) (c), (d) and (f), whether or not the matter or thing in respect of which the power is exercised is in or of New South Wales.

15 (3) A person—

(a) who resists or obstructs any authorised officer exercising his power under subsection (1) (a); or

(b) who, being a person on whom a notice under subsection (1) (b), (c), (d), (e) or (f) has been served, without
20 reasonable excuse neglects or fails to comply with the direction contained in the notice,

is guilty of an offence against this Act.

38. (1) Where an authorised officer believes on reasonable grounds—

Authorised officer may order remedial measures.

25 (a) that any substance, article, apparatus or other thing used by any dairyman in producing milk is unfit for the purpose for which it is intended to be used;

(b) that any substance, article, apparatus or other thing used for or in connection with milk by a dairyman is
30 unfit for that use;

(c) that any storage facility or any conveyance used by a dairyman for the purpose of the storage or carriage of milk is unfit for that purpose; or

Dairy Industry Marketing Authority.

(d) that any dairy premises are unfit for use for or in connection with an activity that a registered dairyman is authorised by his certificate of registration to carry on there,

5 he may, by notice in writing served on the dairyman or registered dairyman, as the case may be, direct—

(e) that substance, article, apparatus or other thing to be made fit for the purpose for which it is to be used or to be replaced or corrected;

10 (f) that substance, article, apparatus or other thing to be made fit for use for or in connection with milk;

(g) that storage facility or conveyance to be made fit for the purpose of the storage or carriage of milk; or

15 (h) those dairy premises to be made fit for use for or in connection with that activity,

in the manner, to the extent and by the time specified in the direction.

(2) Any person who, without reasonable excuse, neglects or fails to comply with a direction contained in a notice served on 20 him under subsection (1) is guilty of an offence against this Act.

39. (1) For the purposes of this Act, an authorised officer may, at any reasonable time—

Powers of entry, etc., of authorised officers.

25 (a) subject to subsection (5), enter and, for as long as is reasonably necessary for the exercise of his powers under this section, remain in or on any dairy premises or conveyance which are or is, or which the authorised officer suspects, on reasonable grounds, are or is, being used for or with respect to the collection, production, treatment, carriage, storage, distribution, delivery, 30 supply, use or sale of milk;

Dairy Industry Marketing Authority.

- 5 (b) search and inspect any dairy premises or conveyance and examine any milk, measures, apparatus, appliances, containers, utensils, goods, packages, parcels or any other things of any nature or kind whatsoever found therein or thereon;
- (c) detain and open any containers, packages, parcels or other things which contain, or which he suspects, on reasonable grounds, contain, any milk;
- 10 (d) request any person found in or on any dairy premises or conveyance referred to in paragraph (a) or any registered dairyman—
- (i) to produce any accounts, records, books, documents, labels or any other things whatsoever—
- 15 (a) which relate to, or which the authorised officer suspects, on reasonable grounds, relate to, the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk; and
- 20 (b) which at the time of the request is in the possession or under the control of that person; and
- (ii) to answer any question with respect to—
- 25 (a) any such accounts, records, books, documents, labels or other things whatsoever; or
- (b) the collection, production, treatment, carriage, storage, distribution, delivery, supply, use or sale of any milk.
- 30
- (2) Any person who—
- (a) prevents or attempts to prevent any authorised officer from exercising any power conferred on him by or under this section;

Dairy Industry Marketing Authority.

- (b) resists or obstructs any authorised officer in the exercise of any such power;
 - (c) fails to comply with any request by an authorised officer made under subsection (1) (d); or
 - 5 (d) furnishes to an authorised officer any information which is false or misleading in any material particular,
- is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection (2) (c) by reason of his failure to answer any question
10 referred to in subsection (1) (d) (ii) if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person is not excused from answering any question, if required to do so under subsection (1) (d), on the ground that
15 the answer might tend to incriminate him or make him liable to penalty, but the information furnished by him shall not be admissible against him in any civil or criminal proceedings, except in proceedings for an offence under subsection (2).

(5) On applying for admission to any premises which he is
20 empowered by subsection (1) (a) to enter, an authorised officer shall, if requested to do so, produce to the occupier of the premises written evidence of his appointment as an authorised officer.

(6) Nothing in this section permits an authorised officer to enter in or on, remain in or on or to search or inspect that
25 portion of any dairy premises or conveyance which is used as a dwelling except under the authority of a warrant issued under section 104 (2).

(7) Nothing in this section affects the admissibility in evidence of an answer voluntarily given by a person to a question
30 asked by an authorised officer but which the authorised officer did not require that person to answer under this section.

Dairy Industry Marketing Authority.

40. (1) Where an authorised officer believes on reasonable grounds— Seizure of contaminated milk.

5 (a) that any person who has suffered from any disease (whether or not it is an infectious disease as defined in section 42) or that any person who has come into contact with any such person could, by reason of his presence on or in any dairy premises, have caused any milk to have become contaminated by that disease; and

10 (b) that any milk, if so contaminated, would be unfit for human consumption,

the authorised officer may seize and destroy any milk found on those dairy premises at any time before the authorised officer is satisfied that there is no longer any risk of milk so found being contaminated by that disease or may, in relation to any such milk, 15 exercise any other power conferred on the authorised officer by this Act.

(2) Every person who—

(a) resists or obstructs any authorised officer in the exercise of any of his powers under subsection (1); or

20 (b) refuses to give information, or gives information knowing it to be false or misleading in a material particular, in answer to any inquiry made by any authorised officer in the exercise of any of those powers,

is guilty of an offence against this Act.

25 DIVISION 3.—*Regulation of Quality of Milk and Dairy Products.*

41. (1) Any person who sells, otherwise than to a dairy produce merchant, milk that has not been— Milk to be pasteurised, treated, etc.

30 (a) pasteurised, processed by means of an ultra heat treatment method or sterilised; or

Dairy Industry Marketing Authority.

(b) treated in the prescribed manner,
is guilty of an offence against this Act.

(2) Any person who sells, otherwise than to a dairy produce merchant, milk that has not been pasteurised, processed by means of an ultra heat treatment method or sterilised by the holder of a certificate of registration that authorises that holder to carry on the activity of pasteurising, processing by means of an ultra heat treatment method or sterilising, as the case may be, milk, is guilty of an offence against this Act.

10 (3) Any person who sells, otherwise than to a dairy produce merchant, packaged or bottled milk that has not been packaged or bottled, as the case may be, by the holder of a certificate of registration that authorises that holder to carry on the activity of packaging or bottling, as the case may be, milk, is guilty
15 of an offence against this Act.

(4) The power conferred by section 98 to exempt any person from any of the provisions of this Act does not extend to exempting a person from the provisions of subsection (1) except in relation to milk obtained from a dairy herd—

20 (a) which has been certified, by the Chief, Division of Animal Health of the Department, to be free from tuberculosis and any other disease prescribed for the purposes of this subsection; and

25 (b) to which an animal has not been admitted after the herd was so certified.

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

42. (1) In this section, "infectious disease" means any disease declared by the Governor, by order published in the Gazette, to be
30 an infectious disease for the purposes of this section. Infectious diseases in milk.

Dairy Industry Marketing Authority.

(2) Where a medical practitioner is treating a person for an infectious disease and the medical practitioner is aware that that person or any other person who has come into contact with that person could, by reason of his presence on or in any dairy premises, milk store, dairy produce factory or dairy produce store, have caused any milk, dairy product or margarine to have become contaminated by that disease, the medical practitioner shall forthwith notify, in writing, the Health Commission of New South Wales, the Department and the Authority.

10 **43.** (1) The occupier of a dairy produce factory is guilty of an offence against this Act— Putrescent
cream.

(a) if he does not, forthwith after the receipt of any putrescent cream at the factory, treat the cream by adding to it a prescribed substance that does not decrease the value of the cream for animal food and—

15 (i) return the cream to the person by whom it was supplied; or

(ii) dispose of the cream otherwise than for the purpose of its being used as a food within the meaning of this Act; or

20 (b) if he uses any putrescent cream in the production of dairy products or retains any putrescent cream at the factory for any longer than is necessary to comply with the requirements of paragraph (a).

25 (2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, dairy products or margarine otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of subsection
30 (1), be deemed to be the occupier of that dairy produce factory.

Dairy Industry Marketing Authority.

44. (1) Any person who places or keeps, or causes to be placed or kept, any milk, dairy product or margarine— Storage of milk, etc.

(a) in any milk store, dairy produce factory or dairy produce store; or

5 (b) in or on any conveyance,

in such a manner that the milk, dairy product or margarine may be deteriorated either by heat or injurious smells, or by the proximity of unclean matter, is guilty of an offence against this Act.

10 (2) In subsection (1), "milk" means—

(a) milk supplied for human consumption, as milk, or for use by humans, as milk; and

(b) milk supplied for use in the production of dairy products.

DIVISION 4.—*Grading of Milk, Cream and Dairy Products.*

15 45. (1) In this Division—

"certificate" means a certificate issued under section 46 that is in force; Interpretation: Pt. IV, Div. 4.

"cream" means cream separated from milk;

"permit" means a permit issued under section 47 that is in force.

20

(2) Where a certificate of registration issued to a dairy produce merchant is subject to a condition prohibiting the holder of the certificate from producing or treating milk, cream or dairy products otherwise than at a specified dairy produce factory, the dairy produce merchant shall, for the purposes of this Division, be deemed to be the occupier of that dairy produce factory.

25

46. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority shall issue a certificate to any person who has the prescribed Issue of certificates.

Dairy Industry Marketing Authority.

qualifications and who, to the satisfaction of the Authority, has passed the prescribed examination authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
- 5 (b) determine the grade of cream; or
- (c) test milk and cream,

supplied or to be supplied to a dairy produce factory.

47. Upon receipt of an application in or to the effect of the prescribed form and payment of the prescribed fee, the Authority ^{Issue of permits.} may issue a permit to a person authorising him, for the purposes of this Division, to—

- (a) determine the grade of milk;
- (b) determine the grade of cream; or
- (c) test milk and cream,

15 supplied or to be supplied to a dairy produce factory.

48. A person is guilty of an offence against this Act if, knowing ^{Grading and testing to be authorised.} or having reasonable grounds to suspect that his determination or the result of his test, as the case may be, will be used for the purposes of section 49, 50 or 52, he—

- 20 (a) determines the grade of milk;
- (b) determines the grade of cream; or
- (c) tests milk or cream,

supplied or to be supplied to a dairy produce factory, unless he is the holder of a certificate or permit authorising him so to do.

Dairy Industry Marketing Authority.

49. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any butter at the factory unless the grade of the cream used in the production of the butter has been determined, by a person authorised by a certificate or permit to determine the grade of cream, before the butter is produced.

Grading of cream used for butter.

50. The occupier of a dairy produce factory is guilty of an offence against this Act if he produces, or causes to be produced, any dairy product, not being butter, at the factory unless the grade of the milk used in the production of the dairy product has been determined, by a person authorised by a certificate or permit to determine the grade of milk, before the dairy product is produced.

Grading of milk used for certain products.

51. The occupier of a dairy produce factory is guilty of an offence against this Act if butter or any other dairy product for which a grade is prescribed under this Act is, at the factory, put up in a package that does not bear, as prescribed, a statement of its grade.

Labelling of butter, etc.

52. (1) The occupier of a dairy produce factory shall, at the time and in respect of the periods prescribed, forward to each person who supplies milk or cream to the factory a statement in writing setting out—

Notice of milk, etc., delivered.

(a) the quantity of milk and the quantity of cream supplied to the factory by that person;

(b) the quantity, if any, of the milk and cream so supplied that, to his knowledge, has not been accepted by the Authority;

(c) the grade or grades, determined in the prescribed manner by a person authorised by a certificate or permit to determine the grade or grades, of the milk and cream so supplied; and

Dairy Industry Marketing Authority.

- (d) where the regulations so require, the milk fat content and any other prescribed qualities, determined in the prescribed manner by a person authorised by a certificate or permit to test milk and cream, of the milk and cream; and
- 5 (e) where the regulations so require, the manner in which payment for the milk and cream has been calculated or otherwise determined.

(2) An occupier of a dairy produce factory who contravenes subsection (1) is guilty of an offence against this Act.

PART V.

10

FIXING OF CERTAIN DAIRY INDUSTRY PRICES.

DIVISION 1.—*The Dairy Industry Pricing Committee.*

15 **53.** (1) There shall be a “Dairy Industry Pricing Committee” which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Part.

Constitution of Dairy Industry Pricing Committee. cf. Act No. 29, 1970, s. 42.

(2) Schedule 3 has effect in relation to the constitution and procedure of the Pricing Committee.

20 **54.** For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Pricing Committee by or under this Part the Pricing Committee may, with the approval of the Minister and on such terms as may be arranged with the Authority or the Department, as the case may be, make use of the services of any of the officers of the Authority or officers and temporary employees of the Department.

Pricing Committee may make use of certain employees of the Authority, etc. cf. Act No. 29, 1970, s. 50.

*Dairy Industry Marketing Authority.*DIVISION 2.—*Prices of Milk and Declared Dairy Products.*

55. (1) The Pricing Committee may from time to time make a recommendation—

Pricing Committee may recommend prices for milk, etc.

- 5 (a) for fixing the minimum price which may be paid to dairymen for milk;
- (b) for fixing the price which may be paid to or charged by any person for the collection, treatment, carriage, storage, distribution, supply or delivery of milk;
- 10 (c) for fixing the price which may be paid by dairy produce merchants or other persons for milk bought by wholesale for re-sale or for use;
- (d) for fixing the maximum price at which milk may be sold by retail;
- 15 (e) for fixing the price above or below which milk may not be sold by retail;
- (f) for fixing the minimum price which may be paid for milk sold by wholesale by dairymen, the milk fat content of which is to be used in the production, in New South Wales, of dairy products; or
- 20 (g) for varying or revoking any order made under subsection (9).

(2) A recommendation made under subsection (1) may recommend—

- 25 (a) different minimum prices under subsection (1) (a) or (f), according to any one or more of the following criteria :—
- (i) differences in the grade, quality, description or quantity of milk;
- 30 (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk;
- (iii) the different areas in which milk or the milk fat content of milk is produced;

Dairy Industry Marketing Authority.

- (iv) the different purposes for which milk or the milk fat content of milk is to be used;
- (b) different prices under subsection (1) (b) according to any one or more of the following criteria:—
- 5 (i) differences in the grade, quality, description or quantity of milk collected, treated, carried, stored, distributed, supplied or delivered;
- (ii) differences in the conditions or methods of collection, treatment, carriage, storage, distribution, supply or delivery of milk;
- 10 (iii) the different areas in which milk is collected, treated, carried, stored, distributed, supplied or delivered; or
- (c) different wholesale prices, different maximum retail prices or different fixed retail prices under subsection (1) (c), (d) or (e) respectively according to any one or more of the following criteria :—
- 15 (i) differences in the grade, quality, description or quantity of milk;
- (ii) differences in the conditions or methods of delivery, distribution, supply or sale of milk;
- 20 (iii) the different areas in which milk is to be delivered, distributed, supplied or sold;
- (iv) the different purposes for which milk or the milk fat content of milk is to be used.
- 25

(3) A recommendation made under subsection (1) may describe the quality of milk wholly or partly by reference to the milk fat content of the milk.

(4) For the purposes of making a recommendation under
30 this section, the Pricing Committee—

- (a) shall have regard to any report a copy of which is furnished to the Authority under section 57 (3);

Dairy Industry Marketing Authority.

- (b) may conduct an investigation for the purpose of obtaining such further information as it considers necessary;
- 5 (c) shall, if the Minister so directs, hold in the manner prescribed, a public inquiry and shall have regard to any information received during that inquiry; and
- (d) may have regard to such other information as the Pricing Committee considers it necessary or desirable to have regard.
- 10 (5) For the purpose of conducting an investigation or holding an inquiry under subsection (4), the Pricing Committee shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon a commissioner appointed under Division 1 of Part II of the Royal Commissions
- 15 Act, 1923, and that Act, section 13 and Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the Pricing Committee in the same way as it applies to a witness summoned by or appearing before a royal commission.
- 20 (6) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.
- (7) Where the Pricing Committee has made a recommendation under this section—
- 25 (a) in respect of milk of a class prescribed for the purposes of this subsection—it shall forward the recommendation to the Prices Commission; or
- (b) in respect of any other milk—it shall forward the recommendation to the Authority which shall forward it to
- 30 the Minister together with any comments that the Authority sees fit to make in respect of the recommendation.

Dairy Industry Marketing Authority.

(8) The Minister may, after considering any recommendation of the Pricing Committee forwarded to him under subsection (7) (b) and any comments of the Authority accompanying the recommendation, approve or reject the
5 recommendation.

(9) Where—

(a) the Prices Commission receives a recommendation forwarded to it under subsection (7) (a), it may, after considering the recommendation—

10 (i) by order published in the Gazette, notify prices in respect of milk to which the recommendation relates, which prices may be the same as or different from those recommended, and vary or revoke any previous order in force under this
15 subsection with respect to that milk; or

(ii) reject the recommendation and refuse to notify any prices as a consequence of its receipt of the recommendation; or

20 (b) the Minister, under subsection (8), approves of a recommendation, he may, by order published in the Gazette, notify prices in respect of milk to which the recommendation relates in accordance with the recommendation and vary or revoke any previous order in force under this subsection with respect to that milk.

25 (10) Prices notified by an order published under subsection (9) take effect on and from a day (not being earlier than the date of publication of the order) specified in the order and shall continue to have effect until varied or revoked by a subsequent order made under subsection (9) by the Prices Commission or the
30 Minister, as the case may require.

(11) Where a maximum price for milk sold by retail has been notified by an order in force under subsection (9), neither the Prices Commission nor the Minister may make an order fixing the price above or below which that milk may not be sold by retail
35 unless it or he revokes the order fixing the maximum price for that milk.

Dairy Industry Marketing Authority.

(12) Any person who—

(a) sells—

5 (i) milk by retail at a price exceeding the maximum price notified by an order in force under subsection (9) in respect of that milk;

(ii) milk by wholesale at a price other than the price so notified in respect of that milk, or the milk fat content of that milk; or

10 (iii) milk by retail at a price above or below the price notified by an order in force under subsection (9) as the price above or below which that milk may not be sold by retail,

15 with knowledge, where the price so notified applies to milk to be used for any particular purpose, of the purpose for which the milk sold is to be used; or

(b) pays or charges any price for the collection, treatment, carriage, storage, distribution, supply or delivery of milk exceeding the price so notified in respect thereof,

is guilty of an offence against this Act.

20 **56.** (1) The Governor may, by order published in the Gazette, declare any dairy product to be a declared dairy product for the purposes of this section. Pricing Committee may make recommendations for fixing prices for declared dairy products.

(2) The Pricing Committee may make a recommendation—

25 (a) for fixing the minimum wholesale prices to be paid to producers of declared dairy products; or

(b) for varying or revoking any order made under subsection (8).

30 (3) A recommendation made under this section may recommend different minimum wholesale prices according to differences in grade, quality, description or quantity, or the condi-

Dairy Industry Marketing Authority.

tions of delivery, distribution or sale, of the declared dairy products, the different areas in which the declared dairy products are produced or the different purposes for which the declared dairy products are to be used.

5 (4) For the purposes of making a recommendation under this section, the provisions of section 55 (4) and (5) apply to the Pricing Committee in the same way as they apply to the Pricing Committee for the purposes of making a recommendation under that section.

10 (5) A recommendation under this section may be made at such times as the Pricing Committee, with the approval of the Minister, may appoint and shall, if the Minister so directs, be made at any time required by him.

15 (6) Where the Pricing Committee has made a recommendation under this section it shall forward it to the Authority which shall forward it to the Minister, together with any comments the Authority sees fit to make in respect of the recommendation.

20 (7) The Minister may, after considering the recommendation of the Pricing Committee and any comments of the Authority, approve or reject the recommendation.

25 (8) Where the Minister approves of the recommendation, he may, by order published in the Gazette, notify wholesale prices in respect of declared dairy products in accordance with the recommendation of the Pricing Committee and those prices shall take effect on and from a day (not being earlier than the date of publication of the order) to be specified in the order and shall continue to have effect until varied or revoked by a subsequent order made on the recommendation of the Pricing Committee.

(9) Any person—

30 (a) who, being the producer of a declared dairy product, sells, by wholesale, a declared dairy product;

Dairy Industry Marketing Authority.

(b) who buys, by wholesale, a declared dairy product from the producer thereof,
at a price less than the wholesale price notified by an order made under subsection (8) in respect of that declared dairy product is
5 guilty of an offence against this Act.

DIVISION 3.—*Miscellaneous.*

10 **57.** (1) For the purposes of this Part, the Minister shall cause the Division of Marketing and Agricultural Economics of the Department to carry out surveys, at the times required under subsection (2), of the cost and income structure of the dairying industry in New South Wales with particular reference to the costs of on farm production of milk, the costs of the processing of milk and the costs of the production of dairy products.

Surveys to be conducted by the Department.

15 (2) A survey under this section shall be carried out at intervals of not more than 5 years but the Minister may, at the request of the Pricing Committee or otherwise, direct that a supplementary survey be carried out at such other times as he considers appropriate.

20 (3) The information obtained from any survey carried out under this section shall be embodied in a report a copy of which shall be furnished to the Authority.

25 **58.** (1) If, after any agreement is made for the sale and purchase of milk, the Prices Commission or the Minister in the exercise of its or his powers under section 55 notifies any price which affects either directly or indirectly the price to be paid to a dairyman under that agreement for milk supplied for human consumption, as milk, or for use by humans, as milk, or the price to be paid to or charged by any person under that agreement for the collection, treatment, carriage, storage, distribution, supply or
30 delivery of milk supplied for human consumption, as milk, or for

Effect of price fixing on contracts.

Dairy Industry Marketing Authority.

use by humans, as milk, that agreement shall, as on and from the date the notification takes effect, be deemed to be altered as follows :—

- 5 (a) where any minimum price to be paid to a dairyman for milk so supplied is so notified, the price so notified shall be substituted for the agreed price in the agreement where the agreed price is less than the minimum price notified in respect of milk of the grade, quality or description supplied or sold (whether or not grade, quality or description is specified in the agreement);
- 10
- (b) where any price is so notified for the collection, treatment, carriage, storage, distribution, supply or delivery of milk so supplied, and that price applies to milk in respect of which the agreement applies, that price shall, if it is less than the agreed price in the agreement, be substituted for the agreed price;
- 15
- (c) where the agreement is between a dairy produce merchant and a person other than a dairyman, and any agreement under which the dairy produce merchant acquired the milk has been varied by the operation of paragraph (a) or (b)—
- 20
- (i) if the variation operates to increase the cost of the milk to the dairy produce merchant he may add to the agreed price in the agreement the net amount of the increase applicable to that milk; and
- 25
- (ii) if the variation operates to decrease the cost of the milk to the dairy produce merchant, the purchaser may deduct from the agreed price in the agreement the net amount of the decrease applicable to that milk,
- 30

but in no case shall this paragraph operate to increase the price payable under any agreement to a price exceeding any maximum price so notified in relation to milk of the grade, quality or description sold (whether or not grade, quality or description is specified in the agreement).

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Dairy Industry Marketing Authority.

(2) An order made by the Minister under section 55 or 56 or made by the Prices Commission under section 55 shall not apply to—

- 5 (a) the price to be paid for any milk supplied otherwise than for human consumption, as milk, or otherwise than for use by humans, as milk;
- (b) the price to be paid or charged for the collection, treatment, carriage, storage, distribution, supply or delivery of any milk so supplied; or
- 10 (c) the price to be paid for any declared dairy product, within the meaning of section 56, supplied,

under an agreement made before the order takes effect.

59. (1) Notwithstanding the provisions of any other Act or of any regulations, rules or by-laws under any other Act, whether 15 passed or made before or after the commencement of this Act, 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.

(2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Act, affect any price fixed under any 20 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 25 Act, cease to have effect.

60. Every document requiring authentication by the Pricing Committee may be sufficiently authenticated if signed by the chairman of the Pricing Committee and one other member of the Pricing Committee. Documents of Pricing Committee —how authenticated.

Dairy Industry Marketing Authority.

PART VI.

ACQUISITION OF PROPERTY BY THE AUTHORITY.

DIVISION 1.—*Acquisition of Land.*

61. The Authority may acquire land for any purpose of this Act by lease or purchase, or by resumption or appropriation in accordance with the provisions of section 62.

Land—how
acquired.
cf. Act No.
59, 1931,
s. 64.

62. (1) The Governor, on the application of the Authority, may, under the Public Works Act, 1912, resume any land, and appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

Resumption
or appro-
priation of
land.
cf. Act No.
59, 1931,
s. 67.

(2) Any such resumption or appropriation shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the Authority shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

(3) The provisions of the Public Works Act, 1912, sections 34, 35, 36 and 37 excepted, shall apply to and in respect of the acquisition of land under this section.

DIVISION 2.—*Acquisition of Undertakings.*

63. In this Division—

“owner”, in relation to an undertaking, means the person carrying on that undertaking;

“undertaking” means—

(a) the business of a person engaged in the collection, treatment, carriage, storage, distribution, supply, delivery or sale of milk, dairy products

Interpreta-
tion: Pt. VI,
Div. 2.
cf. Act No.
59, 1931,
s. 68.

Dairy Industry Marketing Authority.

or margarine, and any land, conveyances, machinery, equipment and plant mainly used in connection with that business; and

- 5 (b) part of any undertaking defined by paragraph (a).

64. (1) If the Authority determines that an undertaking should, in the public interest, be taken over by the Authority it may apply to the Governor through the Minister for authority to take over the undertaking.

Resumption of under-taking. cf. Act No. 59, 1931, s. 69.

- 10 (2) Before the Governor approves of any such application, the Authority shall make provision to the satisfaction of the Governor for payment of compensation, interest and all necessary costs and charges incidental to the taking over of the undertaking.

- 15 (3) The Governor may approve of any such application and authorise the Authority to take over the undertaking specified in the application.

- 20 (4) Where the Governor has authorised the Authority to take over any undertaking, it may, by notice served on the owner of the undertaking, notify him that, as on and from a date specified in the notice, not being less than 1 month after the service of the notice, the undertaking shall be taken over by the Authority, and thereupon the following provisions shall have effect :—

- 25 (a) the owner may, by notice in or to the effect of the prescribed form, require the Authority to purchase the conveyances, machinery, equipment and plant, and his estate or interest in any land, mainly used by him in connection with the undertaking to be so taken over;

- 30 (b) any such conveyances, machinery, equipment, and plant shall be purchased at a price which shall not exceed the then replacement value of the conveyances, machinery, equipment or plant, having regard to their age and condition at the time of their being actually handed over to the Authority, together with a sum equal to 10 per cent of that value;

Dairy Industry Marketing Authority.

- (c) any land shall be paid for at the then market value of the estate or interest of the owner of the undertaking therein;
- 5 (d) the Authority may, at any time after the expiry of 7 days after the receipt of a notice requiring the Authority to purchase, and shall, not later than 1 month after the receipt of the notice, take possession of the conveyances, machinery, equipment and plant, and the land, of the owner on a date notified to that owner and the day on which possession is taken shall be the date as at which the values shall be ascertained;
- 10 (e) where the owner requires the Authority to purchase his estate or interest in any land, he shall satisfy the Authority that he has a good marketable title to that estate or interest, and shall obtain the concurrence in the assurance thereof to the Authority of any mortgagee thereof and of any person entitled to any interest in the conveyances, machinery, equipment and plant purchased.
- 15

65. (1) Upon receipt of a notice under section 64 (4) (a) from an owner of an undertaking requiring the Authority to purchase any property, the Authority shall forthwith cause a valuation to be made of the conveyances, machinery, equipment and plant, and of the estate or interest in the land, required to be purchased.

20

Valuation.
cf. Act No.
59, 1931,
s. 70.

(2) The Authority may, with the approval of the Minister in charge of the Government Department concerned, make use of the services of any officers of the Public Service for the purpose of making the valuation.

25

(3) For the purpose of the making of the valuation the owner of the undertaking shall permit any person authorised by the Authority so to do to enter his premises at any reasonable time, and to make full inspection of the land, conveyances, machinery, equipment and plant required to be purchased.

30

(4) Notwithstanding any other provision of this Part, in valuing any estate or interest in land for the purposes of this section any increase in the value of the land attributable directly or indirectly to the operation of this Act shall not be taken into account.

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Dairy Industry Marketing Authority.

(5) No compensation shall be payable in respect of goodwill.

(6) The Authority shall in accordance with the provisions of this Division determine the amount to be paid in respect of any undertaking taken over by the Authority, and shall notify the owner of that amount.

66. (1) If any owner whose undertaking is taken over by the Authority under this Division is aggrieved by the determination of the Authority as to the amount to be paid in respect of the taking over of the undertaking he may appeal to the Land and Environment Court against the determination in accordance with rules of court, and the Land and Environment Court shall have jurisdiction to hear and determine the appeal.

Appeal.
cf. Act No.
59, 1931,
s. 71.

(2) The Authority may exercise its powers under section 64 (4) (d) notwithstanding that any appeal is pending under subsection (1).

67. The amount payable under the provisions of this Division upon the taking over of an undertaking shall carry interest at the rate of 4 per cent per annum as from the date upon which the Authority takes possession of the land, conveyances, machinery, equipment and plant until the date of payment.

Interest.
cf. Act No.
59, 1931,
s. 72.

68. Until the date notified by the Authority as the date on which the land, conveyances, machinery, equipment and plant are to be taken possession of by the Authority the owner of the undertaking shall continue to carry on the undertaking in a manner equally as satisfactory as it was carried on before the notice pursuant to section 64 (4) (d) was given by the Authority, and if, in the opinion of the Authority, the undertaking is not so carried on the Authority may give notice to the owner specifying the par-

Owner to
carry on
until
under-
taking
handed
over.
cf. Act No.
59, 1931,
s. 73.

Dairy Industry Marketing Authority.

ticular matters which are unsatisfactory, and requiring the owner to remedy those matters within a time specified in the notice, and in default of compliance with that notice the Authority may—

- 5 (a) rescind the notice given pursuant to section 64 (4) (d) and thereupon the obligation of the Authority to purchase the undertaking of the owner or to pay any amount in connection therewith shall be terminated as from the date of the notice of rescission; or
- 10 (b) require that compensation be allowed the Authority for any loss arising out of the failure of the owner to carry on the business in a satisfactory manner or to comply with the requirements of any notice of default given by the Authority under this section.

15 **69.** Nothing in this Division shall preclude the Authority from purchasing any undertaking, but such a purchase shall not be made if the purchase price exceeds the amount that would be payable in accordance with this Division if the Authority were required to purchase the undertaking under this Division. Purchase. cf. Act No. 59, 1931. s. 74.

PART VII.

20 FINANCE.

DIVISION 1.—*Accounts and Audits.*

70. (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations. Accounts.

(2) The Authority shall, as soon as practicable, but within 25 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

Dairy Industry Marketing Authority.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Authority.

5 (4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he
10 has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the
15 statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the
20 receipt by him of the statement.

(8) The financial year of the Authority shall be the year commencing on 1st July.

71. (1) The accounts and records of financial transactions of
the Authority, and the records relating to assets of or in the custody
25 of the Authority, shall be inspected and audited by the Auditor-General. Audit.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records,
30 documents and papers of the Authority and may make copies thereof or take extracts therefrom.

Dairy Industry Marketing Authority.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of the Authority, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-
5 General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any
10 part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

15 (i) due diligence and care have been shown in the collection and banking of money payable to the Authority;

(ii) the expenditure incurred has been duly authorised, vouched and supervised;

20 (iii) any of the money or other property of the Authority has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

25 (6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Dairy Industry Marketing Authority.

DIVISION 2.—Investment and Borrowing.

72. The Authority may invest moneys held in government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

Investment of funds.

73. (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

74. The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of carrying out and discharging any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

Purposes for which money may be borrowed.

75. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

Reserves for repayment.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

Dairy Industry Marketing Authority.

(3) Money held as reserve for loan repayment fund may be invested in government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, that balance shall form part of the funds of the Authority.

(8) The reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

Dairy Industry Marketing Authority.

76. (1) For securing repayment of the principal and interest on any money borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. Debentures,
etc.
- 5 (2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.
- (3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.
- 10 (4) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.
- 15 (5) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Govern-
20 ment.
- (6) Any liability arising from any such guarantee shall be payable out of money provided by Parliament.
- (7) The charge created by subsection (5) shall not prejudice or affect the power of the Authority to sell or convey any
25 property vested in it free of the charge.
77. (1) Any trustee, unless expressly forbidden by the instru- Trustees.
ment (if any) creating the trust, may invest money in his hands in stock inscribed by the Authority, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925.

Dairy Industry Marketing Authority.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any money which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of that money.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

10 **78.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof. Lost debentures.

15 (2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- 20 (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before it has been paid off;
- (b) such advertisement as the Supreme Court may direct has been published;
- 25 (c) 6 months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

30 (4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

Dairy Industry Marketing Authority.

(5) The provisions of this section shall extend to the case of a lost, destroyed or defaced coupon in the same way as they apply to the case of a lost, destroyed or defaced debenture or bond.

79. (1) A person advancing money to the Authority shall not
 5 be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or mis-application. Protection of investments.

(2) A notification in the Gazette of the approval of the
 10 Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

80. All debentures, bonds, stock or other securities which are
 15 secured upon the income and revenue of the Authority shall rank Debentures and bonds to rank pari passu. *pari passu* without any preference one above another by reason of priority of date or otherwise.

PART VIII.

SUPPLEMENTARY.

20 **DIVISION 1.—Additional Powers of Authorised Officers.**

81. In this Division, "authorised officer" means a person
 appointed to be an authorised officer under section 20 (1) or 36. Interpretation: Pt. VIII, Div. 1.

82. (1) An authorised officer who finds a person committing
 25 an offence against this Act or the regulations or who suspects, on reasonable grounds, a person of having committed or attempted to commit any such offence, may demand from that person his name and place of abode. Demanding name and place of abode.

Dairy Industry Marketing Authority.

(2) Any person who, upon demand made under subsection (1) and upon production of written evidence of the appointment of the authorised officer making the demand—

(a) fails or refuses to state his name or place of abode; or

5 (b) gives a false name or place of abode,

is guilty of an offence against this Act.

83. (1) In this section—

Inspection
of vehicles.

“dairy product” includes a dairy product that is not a New South Wales dairy product;

10 “margarine” includes margarine that is not New South Wales margarine;

“milk” includes milk that is not New South Wales milk;

“officer” means—

(a) an authorised officer; or

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

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

“place” includes road, whether public or otherwise.

(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.

25 (3) The driver or person in charge of a vehicle approaching a sign referred to in subsection (2) from the direction in which the sign is facing 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
30 powers conferred upon him by or under this or any other Act.

Dairy Industry Marketing Authority.

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

- 5 (a) inspect any vehicle, any milk, dairy product or margarine in or on any vehicle and examine any books, documents, papers, scales, measures, appliances, apparatus, containers or utensils, referring to or used in connection with milk, dairy products or margarine in or on any vehicle;
- (b) take, without payment, samples of any milk, dairy product or margarine in or on any vehicle;
- 10 (c) take copies of, or extracts or notes from, any books, documents or papers referred to in paragraph (a); and
- (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
15 the purposes of paragraph (a), (b) or (c).

(5) Any person who—

- (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 acting 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
25 it or anything in or on it after having been required so to do under subsection (4) (d),

is guilty of an offence against this Act.

84. (1) In subsection (2), "officer" has the meaning ascribed thereto in section 83 (1).

Personation
of certain
officers.

- 30 (2) Any person who forges or counterfeits any written evidence of appointment of an officer or makes use of any forged, counterfeited or false written evidence of any such appointment or personates an officer or falsely pretends to be an officer is guilty of an offence against this Act.

Dairy Industry Marketing Authority.

DIVISION 2.—Investigation of Complaints by Dairymen.

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

Interpretation:
Pt. VIII,
Div. 2.

“conduct” means—

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

“investigation” means investigation into conduct that is the subject of a complaint under section 87;

10 “Special Officer”, in relation to an investigation, means the Special Officer nominated under section 86 (1) in respect of the investigation.

86. (1) The Minister may nominate an officer or temporary employee of the Department or an officer of the Authority to carry out an investigation in relation to a complaint made under section 87.

Special Officer.

(2) A person nominated under subsection (1) in respect of an investigation shall have and may exercise and discharge, in relation to the investigation, the powers, authorities, duties and functions conferred upon a Special Officer by or under this Part.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1979.

87. (1) Subject to subsection (2), any dairyman may complain to the Minister about the conduct of the Department or the Authority in so far as that conduct affects that dairyman.

Complaint.

(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.

Dairy Industry Marketing Authority.

- 88.** (1) Where any dairyman has complained to the Minister pursuant to this Part, the Minister may make that complaint the subject of an investigation. **Action on complaint.**
- (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.
- (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;
- 10** (b) to the Special Officer; and
- (c) where the complaint relates to the alleged conduct of—
- (i) the Department—to the Department; or
- (ii) the Authority—to the Authority.
- (4) A notice under subsection (3) (b) or (c) shall **15** 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 Department, the Authority or the complainant.
- 20 89.** (1) Where the Special Officer receives a notice referred to in section 88 (3) concerning a complaint, he shall carry out an investigation in relation to the complaint. **Investigation.**
- (2) An investigation shall be made in the absence of the public.
- 25** (3) For the purposes of an investigation, the Special Officer may require the Department or the Authority—
- (a) to give him a statement of information;
- (b) to produce to him any document or other thing;

Dairy Industry Marketing Authority.

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

(d) to answer any question.

(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 Department and the Authority shall comply with any requirements made of them by a Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Department or the Authority, sets aside that requirement.

(6) This Division does not enable a Special Officer to require the Department or 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

(d) to answer any question,

which relates to conduct of business within the Department or 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 with the Minister on the conduct the subject of the investigation.

90. Where, in an investigation, the Special Officer considers that there are grounds for adverse comment in respect of the Department or the Authority, any officer or temporary employee of the Department, any member or officer of the Authority or any person of whose services use is made by the Authority under section 17, the Special Officer, before making any such comment in any report or recommendation to the Minister, shall, so far as is practicable—

Person to be heard.

Dairy Industry Marketing Authority.

- (a) inform the Department, the Authority or that individual of the substance of the grounds for adverse comment; and
- (b) give the Department, the Authority or that individual an opportunity to make submissions to the Special Officer.

91. (1) After an investigation under this Division the Special Officer shall make a recommendation to the Minister.

Action following investigation.

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

(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 Department or the Authority, whichever is concerned, of the grounds upon which he proposes to take, or direct the taking of, that action.

(4) The Department or 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 Department or the Authority in respect of that decision.

(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.

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

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

Dairy Industry Marketing Authority.

 DIVISION 3.—*Proceedings for Offences.*

92. Proceedings for an offence against this Act or the regulations may be disposed of in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for an offence, generally.
- 5 93. (1) Any information, complaint, or other legal proceeding under this Act may be laid or taken in the name of the Authority by the secretary or by any other officer authorised by the Authority in that behalf either generally or in any particular case. Informations.
- (2) In any proceedings the production of a notification in 10 the Gazette that any person has been so authorised shall be conclusive evidence of his authority and evidence that his authority to act remains in force.
- (3) The secretary or other officer of the Authority shall, 15 out of the funds of the Authority, be reimbursed all damages, costs, charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection (1).
94. In any legal proceedings by or against the Authority no 20 proof shall be required (until evidence is given to the contrary) of— Proof of certain matters not required.
- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any officer of the Authority;
- 25 (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

Dairy Industry Marketing Authority.

95. In any proceedings in any court or before any persons Evidence.
having by law or consent of parties authority to hear, receive and
examine evidence—

(a) any printed paper purporting to be—

5

(i) an order made and published under this Act; and

(ii) printed by the Government Printer,

shall be evidence that an order in the words printed in
that paper was duly made and published under this Act;
and

10

(b) a certificate purporting to be signed by the Chairman or
Deputy Chairman or 2 members certifying—

15

(i) that a person has been appointed as the delegate
of the Authority under section 18 and specifying
what powers, authorities, duties or functions of
the Authority were delegated to him and the
period during which he was a delegate;

20

(ii) that a person was appointed as an authorised
agent under section 19 (1) and specifying for
what purposes and in what circumstances he was
authorised to act as the agent of the Authority
and the period during which he held that
appointment;

25

(iii) that on a day, or during a period, specified in the
certificate, a person was or was not registered as
a dairyman and, if the certificate certifies that he
was so registered, certifying the conditions to
which the certificate of registration issued to him
was subject; or

30

(iv) that on a day, or during a period, specified in the
certificate, a person was or was not registered as
a dairy produce merchant and, if the certificate
certifies that he was so registered, certifying the
conditions to which the certificate of registration

Dairy Industry Marketing Authority.

issued to him was subject and the activities he was authorised to carry on by that certificate of registration,

shall be prima facie evidence of the facts stated therein.

- 5 **96.** In any proceedings for an offence against this Act the onus of proving any exemption under section 98 lies on the defendant. Proof of exemption.

DIVISION 4.—Miscellaneous.

- 10 **97.** (1) As soon as practicable after 30th June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on that date. Annual report.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

- 15 **98.** (1) The Minister may, by order published in the Gazette, declare that all of the provisions of this Act, or any of the provisions of this Act specified in the order, do not apply to or in respect of— Exemptions.

- (a) any dairyman or any dairyman of a class;
- 20 (b) any dairy produce merchant or any dairy produce merchant of a class;
- (c) any person or any person of a class;
- (d) any dairy premises or any dairy premises of a class;
- (e) any milk store or any milk store of a class;
- 25 (f) any dairy produce factory or any dairy produce factory of a class;

Dairy Industry Marketing Authority.

- (g) any dairy produce store or any dairy produce store of a class;
- (h) any milk, dairy product or margarine or any milk, dairy product or margarine of a class; or
- 5 (i) any part of the State,
specified in the order.

(2) Any such order shall take effect on and from a date specified therein, not being earlier than the date of the publication of the order in the Gazette.

- 10 (3) An order made under subsection (1) (a), (b) or (c) may be absolute or may be subject to such conditions as are specified by the Minister in the order.

(4) For the purposes of subsection (1), a class may be defined by reference to such circumstances or factors as the Minister
15 thinks fit and specifies in the order.

(5) If any person to whom an order under subsection (1) (a), (b) or (c) relates fails to comply with any condition subject to which the order was made, the Minister may, by order published in the Gazette, amend the order by excluding that person
20 from its operation.

(6) An order made under this section has effect according to its tenor.

99. (1) Where under the provisions of this Act or the regulations the Authority—

Fixing of fees and charges.

- 25 (a) supplies any service, product or commodity;
- (b) gives any permission;
- (c) prepares and issues any certificate or other document;
- 179—F

Dairy Industry Marketing Authority.

- (d) furnishes any information;
- (e) makes any registration; or
- (f) receives any application for its approval,

the charge or fee therefor may be fixed by the regulations or, where **5** there is no charge or fee so fixed, the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

(2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of any **10** such charge or fee.

(3) Different charges or fees may be fixed according to such circumstances or factors as are specified in the regulation or resolution.

(4) The charge or fee shall be paid to the Authority by **15** the person to whom or at whose request the service, product, commodity, permission, certificate, document or information is supplied, given, prepared or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

20 100. Any charge, fee or money due to the Authority under the provisions of this Act may be recovered as a debt or liquidated demand in a court of competent jurisdiction. Recovery of charges, etc.

25 101. The Authority may, in any agreement, authority, licence or certificate entered into or issued by it, insert conditions and fix a sum as and by way of liquidated damages for any breach of conditions and those damages shall be recoverable accordingly. Power to impose conditions and fix liquidated damages.

Dairy Industry Marketing Authority.

102. Any summons, writ or other proceeding to be served on the Authority may be served by being served on any member or the secretary. Service of notice of proceedings on the Authority.

103. (1) The Governor may make regulations for or with Regulations.
5 respect to—

- (a) grades, classes, descriptions and standards of quality of milk, dairy products and margarine which may be supplied or supplied for sale or sold;
- 10 (b) the production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, dairy products and margarine;
- 15 (c) prohibiting the production of any grade, class or description of milk, dairy products or margarine from ingredients not approved, or from ingredients obtained from a source not approved, by the Authority;
- 20 (d) the installation of equipment to be used on dairy premises, dairy produce factories, milk stores, and dairy produce stores, the type and design of, and the specifications required to be complied with by, any such equipment and requiring the certification, pursuant to the regulations, of persons engaged in the installation of any such equipment;
- 25 (e) the construction, alteration and maintenance of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- 30 (f) the provision, construction and equipment of laboratories and the equipment to be used thereon or therein in dairy produce factories, milk stores and dairy produce stores and the provision of staff in any such laboratories for the purpose of ensuring the wholesomeness and purity of milk, dairy products and margarine;
- (g) the treatment of milk, dairy products and margarine by holders of certificates of registration;

Dairy Industry Marketing Authority.

- 5 (h) the cleaning and sterilising of cans, vessels, utensils, appliances and equipment used in dairy premises, dairy produce factories, milk stores and dairy produce stores and regulating the size, design and construction of any package used in connection with milk, dairy products or margarine;
- 10 (i) the particulars to be kept by dairymen in respect of their herds;
- 10 (j) the books and records to be kept and the notices to be given by persons engaged in the production, collection, treatment, carriage, storage, distribution, delivery, use or sale of milk, dairy products or margarine and the particulars required to be recorded therein;
- 15 (k) the inspection of dairy premises, dairy produce factories, milk stores and dairy produce stores;
- 20 (l) the forms of applications, notices, certificates, statements and other instruments to be used for the purposes of this Act, the manner in which any application under this Act is to be made and the fees payable in connection with any such instrument or application;
- 25 (m) the service of notices, orders, demands or requirements by the Authority or the Department or any officer of the Authority or officer or temporary employee of the Department;
- 25 (n) making payments in respect of—
 (i) milk vested in the Authority; and
 (ii) any food that is a declared dairy product within the meaning of section 56, and cream or milk that is not accepted by the Authority;
- 30 (o) the powers, authorities, duties and functions of the Authority, the Pricing Committee and the Department;
- (p) the fees to be paid for inspections made by the Authority or the Department;
- 35 (q) prescribing the qualifications to be possessed and the examinations to be passed by persons employed in grading or testing milk or cream;

Dairy Industry Marketing Authority.

- 5 (r) prohibiting persons from being employed in dairy produce factories as butter or cheese makers or in any other prescribed capacity unless they possess the prescribed qualifications and pass the prescribed examinations;
- (s) the issue of certificates and permits, and the duration, renewal and cancellation of certificates and permits issued under this Act or the regulations;
- 10 (t) the procedure for taking samples for the purposes of this Act or the regulations;
- (u) the methods of testing or analysis under this Act or the regulations of any milk, dairy product or margarine;
- 15 (v) the manner in which a payment for milk (other than milk accepted by the Authority) supplied to a dairy produce factory is to be calculated or otherwise determined; and
- 20 (w) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 25 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- 30 (3) A regulation may adopt wholly or partly or by reference any codes, rules, specifications or provisions which relate to any matter with which the regulation deals and which are—
- (a) recommended or adopted by the Standards Association of Australia;

Dairy Industry Marketing Authority.

5 (b) included in any document issued by any Department of the Crown in right of this or any other State or of the Commonwealth or issued by any instrumentality of this or any other State or of the Commonwealth constituted by an Act of the Parliament thereof;

(c) approved by the Minister and published in the Gazette; or

(d) prescribed by any Act or by any regulation, rule, by-law or ordinance made under any Act.

10 (4) A regulation may, wholly or partly, prescribe the manner of determining whether or not any substance belongs to a class of milk, cream, dairy products or margarine by reference to—

15 (a) the milk fat content or any other quality of the substance; or

(b) the milk fat content or any other quality of any ingredient used in the production of the substance,

estimated in the prescribed manner.

20 (5) A regulation shall not be made under subsection (1) (a), (b), (g) or (h) except with the approval of the Health Commission of New South Wales.

(6) Before a regulation is made under this section, the terms of the proposed regulation shall be considered by the Authority and the Director-General of the Department.

25 (7) It shall be conclusively presumed that the requirement of subsection (6) has been satisfied in respect of any regulation purporting to have been made under this Act that is published in the Gazette.

Dairy Industry Marketing Authority.

(8) The regulations may provide that a person who contravenes a regulation is liable—

- (a) to a penalty not exceeding \$500; and
- (b) if the contravention continues, to a further penalty not exceeding \$50 for each day for which the contravention continues.

(9) A regulation may provide that in addition to imposing a penalty for a contravention of the regulation, the court imposing the penalty may order the defendant to pay to the Authority or the Department an amount specified in the order equal to the amount of any expense incurred by the Authority or the Department as a consequence of the contravention of the regulation and any amount so ordered to be paid shall be recoverable by the Authority or the Department, as the case may be, as a debt in any court of competent jurisdiction.

104. (1) In this section, “authorised officer” means a person appointed to be an authorised officer under section 20 (1) or 36. Search warrant.

(2) Upon a complaint made on oath by an authorised officer that the officer suspects on reasonable grounds that a contravention of this Act or the regulations has been or is being committed, or that preparation has been or is being made to commit such a contravention, within any dwelling, a stipendiary magistrate may issue a search warrant authorising an authorised officer named in the warrant together with a member of the police force at any time or times within 14 days from the date of issue of the warrant to enter, if need be by the use of reasonable force, the dwelling named or described in the warrant, and to search the dwelling and any fixtures or fittings therein.

105. Every person who— Offence of obstruction, etc.

- (a) resists or obstructs any officer of the Authority exercising any of the powers of the Authority or otherwise acting in the course of his duty;

Dairy Industry Marketing Authority.

- (b) in relation to any inquiry made by any officer of the Authority acting in the course of his duty, gives information knowing it to be false or misleading in a material particular;
- 5 (c) being the holder of a certificate of registration, sells, distributes or supplies for sale milk which is not of a grade, class or description that he is authorised by the certificate to sell, distribute or supply; or
- 10 (d) sells, distributes or supplies milk to a person carrying on the business of a dairy produce merchant who is not the holder of a certificate of registration as a dairy produce merchant or, being a dairy produce merchant, purchases milk for re-sale from a person who is not the holder of a certificate of registration as a dairy produce merchant,
- 15 is guilty of an offence against this Act.

106. A person who is guilty of an offence against this Act, Penalties. other than section 106 (3), is liable—

- (a) to a penalty not exceeding \$2,000;
- (b) to imprisonment for not more than 6 months; and
- 20 (c) if the offence continues, to a further penalty not exceeding \$100 for every day for which the offence continues.

107. (1) Each Act specified in Column 1 of Part 1 of Schedule 4 is, to the extent specified opposite that Act in Column 2 of that Part of Schedule 4, repealed. Repeal and amendment of certain Acts.

- 25 (2) Each Act specified in Column 1 of Part 2 of Schedule 4 is amended in the manner set forth opposite that Act in Column 2 of that Part of Schedule 4.

108. Schedule 5 has effect.

Savings and transitional provisions.

Dairy Industry Marketing Authority.

SCHEDULE 1.

Secs. 4 (1),
5 (1).

DEFINITION OF MILK.

Cream.

Milk for separation into cream.

- 5 Milk or cream that has been treated for the purpose of pasteurising or sterilising the milk, whether or not the pasteurisation or sterilisation is complete.

Milk that has been treated for the purpose of homogenising the milk, whether or not the homogenisation is complete.

- 10 Ultra heat treated milk, or milk that has been treated by an ultra heat treatment method, whether or not the treatment is complete.

Any liquid produced from the lacteal secretion of the cow for sale or sold or to be sold under any of the following fancy, trade or proprietary names or descriptions:—

- 15 Life
HI-LO
PRIMMA
MAID-GLO
UHT milk, longlife milk, UHT longlife milk or longlife UHT milk.

20

SCHEDULE 2.

Sec. 7.

CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

1. (1) Of the 7 members—
- (a) 1 full-time member shall be a person nominated by the Minister as Chairman of the Authority;
- 25 (b) 1 full-time member shall be a person—
- (i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and
- (ii) nominated by the Minister to represent dairymen and as Deputy Chairman of the Authority;
- 30 (c) 1 full-time member shall be a person nominated by the Minister to represent the consumers of milk, dairy products and margarine;

Qualifi-
cations of
members.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- (d) 1 part-time member shall be a person—
- 5 (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to sell milk from a vehicle; and
- (ii) appointed by the Minister to represent milk vendors;
- (e) 1 part-time member shall be a person—
- 10 (i) selected by the Minister from a panel of 3 persons elected by registered dairy produce merchants each of whom is, by his certificate of registration, authorised to pasteurise or sterilise milk, or to process milk by means of an ultra heat treatment method, at a place in New South Wales, to produce dairy products at a place in New South Wales or to process dairy products at any such place after their manufacture; and
- 15 (ii) appointed by the Minister to represent milk processors;
- (f) 1 part-time member shall be a person—
- 20 (i) selected by the Minister from a panel of 3 persons elected by registered dairymen; and
- (ii) appointed by the Minister to represent dairymen; and
- (g) 1 part-time member shall be an officer of the Department appointed by the Minister.
- 25 (2) Elections for the purpose of constituting and re-constituting the panels referred to in subclause (1) (b) (i), (d) (i), (e) (i) and (f) (i) of this clause shall be conducted in the manner, and at the times or during the periods, prescribed in respect of them.
- (3) Where a registered dairyman or registered dairy produce merchant
- 30 holds 2 or more certificates of registration, the holding of each of which qualifies him to vote in an election to be conducted pursuant to regulations made under subclause (2) of this clause, the dairyman or dairy produce merchant, as the case may be, shall be entitled to cast a separate vote in that election in respect of each of those certificates of registration.
- 35 (4) Where—
- (a) the Minister is required by this Act to nominate or appoint a person required by subclause (1) (b) (i), (d) (i), (e) (i) or (f) (i) of this clause to be selected by the Minister from a panel of 3 persons to hold office as a member; and

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- 5 (b) the panel from which that person would, in the absence of this subclause, be required to be nominated or appointed, as the case may be, is not constituted or re-constituted as required by the regulations,

the Minister may nominate or appoint, as the case may require, such person as he thinks fit for or to the vacant office and a person nominated or appointed under this subclause shall be deemed to have been so selected.

- 10 2. The members referred to in clause 1 (1) (a) and (b) shall, in and by the instruments by which they are appointed, or by other instruments executed by the Governor, be respectively appointed Chairman and Deputy Chairman of the Authority. Chairman and Deputy Chairman.

- 15 3. (1) Subject to this Schedule, the term of office of a member shall be such term— Term of office.

- (a) in the case of a full-time member—not exceeding 5 years; and
(b) in the case of a part-time member—not exceeding 3 years,

as is specified in the instrument of his appointment.

- 20 (2) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for reappointment from time to time and any such reappointment shall be for such term, not exceeding the term prescribed by subclause (1) of this clause in respect of the office to which he is reappointed, as is specified in the instrument of his reappointment.

- 25 4. (1) Subject to subclause (2) of this clause and clause 6, where a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f), otherwise than by reason of the expiration of that member's term of office, a person shall be elected, as prescribed, to fill the vacant office and the person elected— Casual vacancies.

- 30 (a) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and

- (b) shall be appointed to fill that office during the unexpired term of that office.

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(2) Subject to clause 6, where—

- 5 (a) a vacancy occurs in the office of a member referred to in clause 1 (1) (b), (d), (e) or (f); and
- (b) that vacancy so occurs within the final 6 months of the term of office of the member,

such person as the Minister thinks fit may be appointed to the vacant office by the Governor or the Minister, as the case may require, and that person—

- 10 (c) shall be deemed to have been selected by the Minister from a panel referred to in clause 1 (1) (b) (i), (d) (i), (e) (i) or (f) (i), as the case may require; and
- (d) shall hold office during the unexpired term of that vacant office.

15 5. (1) A person who is of or above the age of 70 years shall not be appointed as a member. Disqualifications.

20 (2) A person who is a member of any firm or a director or officer of any company, society, association or corporation directly or indirectly carrying on the business of or having for its objects the supply, treatment, distribution or sale of milk, dairy products or margarine or who receives any remuneration or fee, or any benefit (otherwise than as a shareholder), from any such firm, company, society, association or corporation shall not be eligible for appointment as a full-time member and is disqualified from holding office as a full-time member.

25 6. During the absence or illness of a member the Governor or Minister, as the case may require, may, on such terms and conditions (including terms and conditions as to payment of remuneration, allowances and expenses) as the person making the appointment may determine, appoint a person as a deputy of that member and the person so appointed, while he holds office as a deputy member— Appointments during absences, etc.

- 30 (a) shall have and may exercise and discharge the powers, authorities, duties and functions of the member of whom he is the deputy; and
- (b) if he is not otherwise a member, shall be deemed to be a member.

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

7. (1) During the illness or absence of the Chairman, the Deputy Chairman shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed on the Chairman by or under this Act. Deputy Chairman.
- (2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman, and all acts or things done or omitted by the Deputy Chairman while acting as Chairman shall have the same consequences as if they had been done or omitted by the Chairman.
8. (1) A full-time member shall devote the whole of his time to the duties of his office. Full-time members.
- (2) A full-time member is entitled to be paid—
- 15 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.
9. A part-time member is entitled to be paid such— Part-time members.
- 20 (a) fees for attending meetings of the Authority; and
- (b) travelling and subsistence allowances,
- as the Minister may from time to time determine in respect of him.
10. (1) A member shall be deemed to have vacated his office if— Vacation of office.
- (a) he dies;
- 25 (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) he absents himself from duty for a period exceeding 14 consecutive days, where he is a full-time member, or from 3 consecutive meetings of the Authority, where he is a part-time
- 30

*Dairy Industry Marketing Authority.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

- 5 member, except in either case on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless his absence is occasioned by illness or other unavoidable cause;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 10 (e) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- 15 (f) he resigns his office by writing under his hand addressed to the Governor, where he is a full-time member, or to the Minister, where he is a part-time member;
- (g) he attains the age of 70 years;
- 20 (h) he is removed from office by the Governor, where he is a full-time member, or by the Minister, where he is a part-time member;
- (i) being a full-time member, he engages during his term of office in any paid employment outside the duties of his office; or
- (j) being the part-time member referred to in clause 1 (1) (g), he ceases to be an officer of the Department.
- 25 (2) For any cause which appears to him sufficient—
- (a) the Governor may remove a full-time member from office; and
- (b) the Minister may remove a part-time member from office.

11. (1) The provisions of the Public Service Act, 1979, shall not apply to or in respect of the appointment of a member and a member shall not, as a member, be subject to that Act during his term of office as a member.

Effect of certain other Acts.

35 (2) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member of the Authority or from accepting and retaining any remuneration, allowances, expenses or fees payable to him as a part-time member under clause 6 or 9.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

12. (1) Where a person was, immediately before his appointment as a full-time member, an officer of the Public Service and ceases to be a full-time member otherwise than pursuant to clause 11 (1) (paragraph (f) excepted), he shall, if he has not attained the age of 60 years, be appointed to a position in the Public Service not lower in classification or salary than that which he held immediately before his appointment. Saving of certain rights of full-time members.
- 10 (2) Where a full-time member was, immediately before his appointment, an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, he shall retain any rights which have accrued or are accruing to him as such an officer or employee and he shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or 15 gratuity as if he had continued to be such an officer or employee during his service with the Authority, and for the purposes of this subclause his service as such a member shall be deemed to be service for the purposes of that Act and the Public Service Act, 1979.
- 20 (3) Where a full-time member contributes to a fund or account as referred to in subclause (2) of this clause, the Authority shall pay to the State Superannuation Board such amounts as would have been payable to that Board if that full-time member had remained an employee within the meaning of the Superannuation Act, 1916, and had continued to be employed by the employer by whom he was employed immediately 25 before his appointment as such a member and as if he were receiving from that employer the same remuneration as is being paid to him under the Statutory and Other Offices Remuneration Act, 1975.
- (4) A full-time member shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.
- 30 13. (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Authority. Procedure at meetings of Authority.
- (2) The Minister shall call the first meeting of the Authority in such manner as he thinks fit.
- 35 (3) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the other full-time member, shall preside at any meeting of the Authority.

Dairy Industry Marketing Authority.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE AUTHORITY—*continued.*

(4) Four members, of whom at least 1 shall be a full-time member, shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(5) The person acting as chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

(7) The Authority shall cause full and accurate minutes to be kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting as soon as practicable after the date on which it was held.

14. (1) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject the member, or that person, personally to any action, liability, claim or demand whatsoever.

Liability
of
members,
etc.

(2) Nothing in subclause (1) of this clause shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which the member authorised or joined in authorising.

Dairy Industry Marketing Authority.

SCHEDULE 3.

Sec. 53.

CONSTITUTION AND PROCEDURE OF PRICING COMMITTEE.

1. (1) Subject to subclause (2) of this clause, the Pricing Committee shall consist of 3 members being the 3 members of the Authority appointed by the Governor. Members of Pricing Committee.

(2) The part-time member of the Authority referred to in clause 1 (1) (g) of Schedule 2 shall, during the absence or illness of any member of the Pricing Committee, be a member of the Pricing Committee, unless a person holds office, pursuant to clause 6 of Schedule 2, as a deputy of that absent or ill member.

2. (1) The procedure for the calling of meetings of the Pricing Committee and for the conduct of business at those meetings shall, subject to this clause, be as determined by the Pricing Committee. Procedure at meetings of Pricing Committee.

(2) The Minister shall call the first meeting of the Pricing Committee in such manner as he thinks fit.

(3) The Chairman of the Authority or, in his absence, the Deputy Chairman of the Authority shall be the chairman of the Pricing Committee and shall preside at any meeting of the Pricing Committee.

(4) The 3 members of the Pricing Committee shall form the quorum for its meetings.

(5) The person acting as chairman at any meeting of the Pricing Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(6) A decision supported by a majority of the votes cast at a meeting of the Pricing Committee at which a quorum is present shall be the decision of the Pricing Committee.

Dairy Industry Marketing Authority.

SCHEDULE 4.

Sec. 107.

REPEALS AND AMENDMENT OF ACTS.

PART 1.

REPEALS.

5	Column 1.	Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
10	1915, No. 45 .. Dairy Industry Act, 1915 ..	The whole Act.
	1932, No. 55 .. Dairy Industry (Amendment) Act, 1932.	The whole Act.
	1937, No. 35 .. Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 45, 1915.
15	1938, No. 28 .. Dairy Industry (Amendment) Act, 1938.	The whole Act.
	1940, No. 31 .. Dairy Industry (Amendment) Act, 1940.	The whole Act.
	1950, No. 16 .. Dairy Industry (Amendment) Act, 1950.	The whole Act.
20	1951, No. 60 .. Dairy Industry (Amendment) Act, 1951.	The whole Act.
	1955, No. 48 .. Dairy Industry (Amendment) Act, 1955.	The whole Act.
25	1960, No. 42 .. Dairy Industry (Amendment) Act, 1960.	The whole Act.
	1962, No. 40 .. Dairy Industry (Amendment) Act, 1962.	The whole Act.
	1970, No. 29 .. Dairy Industry Authority Act, 1970.	The whole Act.
30	1970, No. 52 .. Supreme Court Act, 1970 ..	So much of the Second Schedule as amended Act No. 29, 1970.
	1972, No. 41 .. Supreme Court (Amendment) Act, 1972.	So much of the Second Schedule as relates to Act No. 29, 1970.
35	1972, No. 63 .. Health Commission Act, 1972.	So much of the Schedule as amended Act No. 45, 1915, and Act No. 29, 1970.
	1973, No. 9 .. District Court Act, 1973 ..	So much of Schedule 2 as amended Act No. 29, 1970.
	1973, No. 23 .. Dairy Industry (Amendment) Act, 1973.	The whole Act.
40	1973, No. 61 .. Dairy Industry Authority (Amendment) Act, 1973.	Section 3.
	1975, No. 3 .. Dairy Industry Authority (Amendment) Act, 1975.	The whole Act.
45	1975, No. 9 .. Dairy Industry (Amendment) Act, 1975.	The whole Act.
	1976, No. 4 .. Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amended Act No. 29, 1970.
50	1977, No. 1 .. Dairy Industry Authority (Amendment) Act, 1977.	The whole Act.

Dairy Industry Marketing Authority.

SCHEDULE 4—*continued.*

PART 1—*continued.*

REPEALS—*continued.*

Column 1.		Column 2.
5	Year and number of Act.	Short title of Act.
		Extent of repeal.
	1977, No. 16 ..	Dairy Industry (Amendment) Act, 1977.
10	1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.
	1977, No. 129 ..	Dairy Industry Authority (Further Amendment) Act, 1977.
15	1978, No. 67 ..	Metric Conversion Act, 1978
	1979, No. 43 ..	Dairy Industry Authority (Amendment) Act, 1979.
20		

PART 2.

AMENDMENT OF ACTS.

Column 1.		Column 2.
25	Year and number of Act.	Short title of Act.
		Amendment.
30	1908, No. 31 ..	Pure Food Act, 1908.
35	1916, No. 28 ..	Superannuation Act, 1916.
40		

*Dairy Industry Marketing Authority.*SCHEDULE 4—*continued.*PART 2—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1.		Column 2.
5 Year and number of Act.	Short title of Act.	Amendment.
10		Schedule III— Omit "The Dairy Industry Authority of New South Wales—in respect of any officer or employee not otherwise referred to in this Schedule".
15	1924, No. 50 .. Metropolitan Water, Sewerage, and Drainage Act, 1924.	Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
20	1938, No. 11 .. Hunter District Water, Sewerage and Drainage Act, 1938.	Section 55 (5) (e)— Omit "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
25	1941, No. 55 .. Agricultural Holdings Act, 1941.	First Schedule, Part III— Omit from item (26) "Dairy Industry Authority Act, 1970", insert instead "Dairy Industry Marketing Authority Act, 1979".
30	1957, No. 28 .. Attachment of Wages Limitation Act, 1957.	Schedule— Omit "The Dairy Industry Authority of New South Wales", insert instead "Dairy Industry Marketing Authority".

SCHEDULE 5.

Sec. 108.

SAVINGS AND TRANSITIONAL PROVISIONS.

35 1. (1) In this Schedule—

"artificial stock breeding service" means the services provided and maintained by the former Authority pursuant to section 18 (1) (f) of the Authority Act for the purposes of the dairy industry and beef industry;

Interpretation:
Sch. 5.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

“Authority Act” means the Dairy Industry Authority Act, 1970;

5 “former Authority” means the Dairy Industry Authority of New South Wales constituted under the Authority Act;

“Industry Act” means the Dairy Industry Act, 1915;

“Marketing Authority” means the Authority constituted by this Act;

“repealed Acts” means the Industry Act and the Authority Act;

“the commencement” means the commencement of this Act.

10 (2) Nothing in this Schedule affects the operation of section 8 of the Interpretation Act, 1897, with respect to this Act.

2. A reference in any other Act or in any by-law, regulation, ordinance or any other instrument or document whatever to the Milk Board or the former Authority shall be construed as a reference to the Marketing Authority. References to Milk Board and former Authority.

3. (1) On the commencement, any—

20 (a) proclamation published in the Gazette under section 5 of the Authority Act, being a proclamation in force immediately before the commencement, shall be deemed to be a proclamation under section 5;

(b) order made under section 7 of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order under section 98;

25 (c) direction contained in a notice served, before the commencement, on a dairyman under section 18 (1) (g), (h), (h1) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 37 (1) (b), (c), (d) or (f);

30 (d) direction contained in a notice served, before the commencement, on a person (other than a dairyman) under section 18 (1) (g), (h), (h1), (i), (j), (k) or (l) of the Authority Act, being a direction that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be a direction contained in a notice served under section 10 (1) (g), (a), Saving of certain instruments.

35 (b), (c), (d), (e) or (f);

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (e) certificate made out before the commencement by the former Authority under section 26 (3) of the Authority Act shall be deemed to be made out by the Marketing Authority under section 27 (4);
- 10 (f) order made and published in the Gazette under section 28 (4) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette, as the case may be, under section 22 (4);
- 15 (g) certificate of registration issued to a dairyman under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to the dairyman under section 32 (5);
- 20 (h) certificate of registration issued to a milk vendor under section 33 of the Authority Act, being a certificate that was in force immediately before the commencement, shall be deemed to be a certificate of registration issued to a dairy produce merchant under section 32 (5);
- 25 (i) instrument specifying a condition to which, pursuant to section 33 of the Authority Act, a certificate of registration referred to in paragraph (g) or (h) was subject immediately before the commencement, shall be deemed to be an instrument specifying a condition to which the certificate is subject pursuant to section 32 (5);
- 30 (j) certificate of registration sent, under section 5 (2) of the Industry Act, to a person in whose name premises were, immediately before the commencement, registered under that Act as a dairy produce factory or store, being a certificate of registration that had not been cancelled before the commencement, shall be deemed to be a certificate of registration issued to that person as a dairy produce merchant under section 32 (5) and the certificate of registration—
- 35 (i) unless sooner cancelled or surrendered under this Act shall be in force for the period of 2 years that commences with the commencement;
- 40 (ii) shall be deemed to have specified in it a condition to which it is subject pursuant to section 32 (5) prohibiting the holder of the certificate from treating or storing milk, dairy products or margarine at any place other than those premises; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (iii) where it was, immediately before the commencement, a certificate of registration of premises as a dairy produce factory bearing an endorsement made pursuant to section 5c of the Industry Act as to the purposes for which those premises might be used, shall be deemed to have specified in it a condition to which the certificate is subject pursuant to section 32 (5) prohibiting the holder of the certificate from using those premises for any other purpose;
- 10
- (k) order made and published in the Gazette under section 36 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order made and published in the Gazette under section 42 (1);
- 15 (l) order published in the Gazette under section 46 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall—
- 20 (i) if the order relates to milk of a class prescribed for the purposes of section 55 (7)—be deemed to be an order of the Prices Commission published under section 55 (9) (a); and
- (ii) if the order relates to any other milk—be deemed to be an order of the Minister published under section 55 (9) (b);
- 25 (m) order published in the Gazette under section 47 (1) of the Authority Act, being an order in force immediately before the commencement, shall be deemed to be an order published in the Gazette under section 56 (1);
- 30 (n) order published in the Gazette under section 47 (8) of the Authority Act, being an order that would, if this Act had not been enacted, have had an effect after the commencement, shall be deemed to be an order published under section 56 (8); or
- (o) certificate issued to a person under section 14 of the Industry Act—
- 35 (i) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully test milk or cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (c);

Dairy Industry Marketing Authority.

SCHEDULE 5—continued.

SAVINGS AND TRANSITIONAL PROVISIONS—continued.

- 5 (ii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade cream supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (b); or
- 10 (iii) being a certificate that was, immediately before the commencement, required by the operation of that section to be held by the person to enable him to lawfully grade milk supplied to a dairy produce factory, shall be deemed to be a certificate issued pursuant to section 46 (a).

(2) In an instrument which was made under either of the repealed Acts and which, by reason of the operation of subclause (1) of this clause, continues to have effect after the commencement—

- (a) a reference to the Authority Act or the Industry Act shall be construed as a reference to this Act; and
- (b) a reference to a provision of either of those Acts shall be construed as a reference to the corresponding provision of this Act.

20 4. On the commencement, any—

Saving of other matters.

- 25 (a) scheme prepared or implemented, or any quota allocated, before the commencement by the former Authority pursuant to section 18 (1) (d) of the Authority Act shall be deemed to be a scheme prepared or implemented, or a quota allocated, by the Marketing Authority pursuant to section 9 (1) (g);
- (b) person appointed as an authorised agent by an instrument in force immediately before the commencement under section 18 (1) (e) of the Authority Act shall be deemed to be a person appointed as an authorised agent by an order under section 19 (1);
- 30 (c) authority conferred under section 18 (3) of the Authority Act on a person by an authorised agent, being an authority in force immediately before the commencement, shall be deemed to be an authority conferred under section 19 (2);
- 35 (d) committee established by the former Authority pursuant to section 20A (2) of the Authority Act shall be deemed to have been established pursuant to section 14 (2);

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (e) determination made or purporting to have been made under section 26 (2) of the Authority Act by the former Authority or any officer of the former Authority authorised for the purposes of that subsection shall be deemed to have been made under section 27 (2);
- 10 (f) investment made by the former Authority under section 67 of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 72;
- (g) advance made to the former Authority under section 68 (1) or (2) of the Authority Act shall be deemed to be an advance made to the Marketing Authority under section 73 (1) or (2);
- 15 (h) borrowing by the former Authority under section 69 of the Authority Act shall be deemed to be borrowing by the Marketing Authority under section 74;
- (i) fund established by the former Authority under section 70 of the Authority Act shall be deemed to be a fund established by the Marketing Authority under section 75;
- 20 (j) investment made by the former Authority under section 70 (3) of the Authority Act shall be deemed to be an investment made by the Marketing Authority under section 75 (3); or
- 25 (k) authorisation granted a person pursuant to section 83 (1) of the Authority Act by the former Authority, being an authorisation in force immediately before the commencement, shall be deemed to be an authorisation granted that person by the Marketing Authority under section 93 (1);

30 5. (1) A regulation made under either of the repealed Acts and in force immediately before the commencement shall, on the commencement, be deemed to be made under this Act if the regulation could have been made under this Act, had this Act been in force when it was made, whether or not it could only have been so made if a reference in the regulation to a provision of either of the repealed Acts were a reference to the corresponding provision of this Act. **Saving of certain regulations.**

35 (2) A reference in a regulation continued in force after the commencement by the operation of subclause (1) of this clause to a provision of either of the repealed Acts shall be construed as a reference to the corresponding provision of this Act.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

6. (1) On and from the commencement—
- Transfer
of assets,
liabilities,
etc., of
the former
Authority.
- 5 (a) except as provided in clause 7, all real and personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority shall vest in and belong to the Marketing Authority;
- 10 (b) all money and liquidated or unliquidated claims that, immediately before the commencement, was or were payable to or recoverable by the former Authority shall be money and liquidated or unliquidated claims payable to or recoverable by the Marketing Authority;
- 15 (c) all suits, actions and proceedings pending immediately before the commencement at the suit of the former Authority shall be respectively suits, actions and proceedings pending at the suit of the Marketing Authority and all suits, actions and proceedings so pending at the suit of any person against the former Authority shall be suits, actions and proceedings pending at the suit of that person against the Marketing Authority;
- 20
- 25 (d) subject to subclauses (3) and (4) of this clause, all contracts, agreements and undertakings entered into with, and all securities lawfully given to or by, the former Authority and in force immediately before the commencement shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Marketing Authority;
- 30 (e) the Marketing Authority may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of suits, actions and proceedings so referred to as the former Authority might have done but for the repeals and amendments effected by this Act;
- 35 (f) the Marketing Authority may enforce and realise any security or charge existing immediately before the commencement in favour of the former Authority and may exercise any powers thereby conferred on the former Authority, as if the security or charge were a security or charge in favour of the Marketing Authority;

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (g) all debts, money and claims, liquidated and unliquidated, that, immediately before the commencement, was or were due or payable by, or recoverable against, the former Authority shall be debts due and money payable by and claims recoverable against the Marketing Authority; and
- 10 (h) all liquidated or unliquidated claims for which the former Authority would, but for the repeals and amendments effected by this Act, have been liable shall be liquidated or unliquidated claims for which the Marketing Authority shall be liable.
- (2) No attornment to the Marketing Authority by a lessee from the former Authority shall be required.
- 15 (3) A reference in subclause (1) (d) of this clause to contracts, agreements and undertakings entered into with the former Authority does not include a reference to any contract, agreement or undertaking so entered into pursuant to section 12 (2), 50 or 63 of the Authority Act.
- 20 (4) All contracts, agreements and undertakings entered into with the former Authority with respect to the artificial stock breeding service, being contracts, agreements or undertakings that were in force immediately before the commencement, shall be deemed to be contracts, agreements and undertakings entered into with the Minister.
- 25 7. (1) The estate or interest, immediately before the commencement, of the former Authority in such of the land situated in the Parish of Coolan-gatta and County of Camden as is comprised in Certificates of Title Volume 5384 Folio 198 and Volume 13737 Folio 75 shall, on the commencement, vest in Her Majesty. **Vesting of certain land, etc., in the Crown.**
- 30 (2) All personal property and all right and interest therein and all management and control thereof that, immediately before the commencement, was vested in or belonged to the former Authority for, or in connection with, the artificial stock breeding service shall, on the commencement, vest in and belong to Her Majesty.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

8. (1) On the commencement, any person who was, immediately before the commencement—
- 5 (a) an officer of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his appointment under section 14 (1) of that Act shall become and be an officer; or
- 10 (b) an employee of the former Authority pursuant to section 12 (1) of the Authority Act or by reason of his employment under section 14 (3) of that Act shall become and be a temporary employee,
- employed under Part IV of the Public Service Act, 1979, and, except as otherwise provided in clause 9, shall be subject to the Public Service Act, 1979.
- 15 (2) Subclause (1) of this clause does not apply to a person who, immediately before the commencement, was employed under section 14 (3) of the Authority Act for the purpose of, or for purposes connected with, the provision of services to a committee established by the former Authority and known as the "Dairy Promotion Council".
- 20 (3) A person to whom subclause (1) of this clause applies shall—
- (a) if he was, immediately before the commencement, employed by the former Authority solely in connection with the artificial stock breeding service, be deemed to have been appointed under the Public Service Act, 1979, as an officer of the Department; and
- 25 (b) if he was, immediately before the commencement, otherwise employed by the former Authority, be deemed to have been appointed under that Act as an officer of the Marketing Authority pursuant to section 16 (1).
9. (1) A person to whom clause 8 (1) applies shall—
- 30 (a) be paid salary or wages at a rate not less than the rate which was payable to him immediately before the commencement, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until that salary or those wages is or are varied under the Public Service Act, 1979, or by an award or industrial agreement made or filed under the Industrial Arbitration Act, 1940;
- 35

Transfer
of officers
and
employees
of former
Authority.

Saving of
certain
rights.

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (b) be entitled to any annual, deferred, recreation and sick leave accrued to him as an officer or employee of the former Authority but not taken at the commencement;
- 10 (c) have and enjoy rights and privileges with regard to extended leave not less favourable than those relating to long service or extended leave applicable to him as such an officer or employee immediately before the commencement and, for the purpose of his entitlement under this paragraph, his continuous service with the former Authority, immediately before the commencement, shall be deemed to be service in the Public Service; and
- 15 (d) retain any rights that, immediately before the commencement, had accrued or were accruing to him under the Superannuation Act, 1916, and, if he was, immediately before the commencement, a contributor within the meaning of that Act shall continue to be a contributor within the meaning of that Act.
- 20 (2) Except as otherwise provided by this clause, where any condition of employment of any person to whom clause 8 (1) applies was regulated, immediately before the commencement, by any award or industrial agreement made or filed under the Industrial Arbitration Act, 1940, and applicable to him as an officer or employee of the former Authority, being a condition which does not conflict with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, the condition
- 25 shall continue to apply to him until it is regulated by or under the Public Service Act, 1979, or by an award or industrial agreement so made or filed.
- 30 (3) Where any dispute arises as to whether an award or industrial agreement regulating any such condition as is referred to in subclause (2) of this clause conflicts with any provision contained in the Public Service Act, 1979, or the regulations made thereunder, that Act or those regulations, as the case may be, shall prevail.
- (4) A person to whom clause 8 (1) applies shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

10. (1) Where, immediately before the commencement, an appeal is pending before, or could have been made to, the Crown Employees Appeal Board by a person who on the commencement becomes an officer under the Public Service Act, 1979, by the operation of clause 8 (1), that appeal may—

Pending appeals to Crown Employees Appeal Board.

(a) where it was pending, be continued or completed; or

10 (b) where it is made after the commencement, be commenced within the period prescribed by the Crown Employees Appeal Board Act, 1944, and be continued and completed,

and may be determined by the Crown Employees Appeal Board.

(2) The determination of the Crown Employees Appeal Board referred to in subclause (1) of this clause shall be given effect to by the Public Service Board.

11. Notwithstanding section 70 (8), where the commencement occurs after 31st March in any year, a reference in section 70 to the financial year of the Marketing Authority shall, in relation to the first statement of accounts of the Marketing Authority, be construed as a reference to the period from and including the commencement up to and including 30th June secondly succeeding the commencement.

Extra-ordinary accounting period.

12. Where the commencement occurs after 31st March in any year, the Marketing Authority shall be deemed to have complied with the duty imposed upon it by section 97 (1) with respect to the preparation and furnishing of a report upon its operations and activities as soon as practicable after 30th June next succeeding the commencement if it includes in the report required by that subsection to be prepared and furnished by it as soon as practicable after 30th June secondly succeeding the commencement a report upon its operations and activities during the period from and including the commencement up to and including 30th June next succeeding the commencement.

First annual report.

13. On the commencement—

35 (a) the Marketing Authority shall cause such of the records maintained by the former Authority as relate to the artificial stock breeding service to be forwarded to the Director-General of the Department; and

Transfer of certain records.

*Dairy Industry Marketing Authority.*SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) the Director-General of the Department shall cause such of the records maintained by the Department as relate—
- 5 (i) to the registration immediately before the commencement, of premises under the Industry Act; and
- (ii) to certificates issued for the purposes of section 14 of the Industry Act, being certificates in force immediately before the commencement,
- 10 to be forwarded to the Marketing Authority.
14. (1) The Minister may, by instrument in writing, extend the term of office as a member of the Dairy Industry Authority of New South Wales of a person holding office as such a member immediately before the date of assent to this Act by reason of his having been elected at an election
 15 held for the purposes of section 8 (2) (d) of the Dairy Industry Authority Act, 1970. Power to extend certain terms of office.
- (2) Notwithstanding section 8 (4) of the Dairy Industry Authority Act, 1970, a person whose term of office is extended by an instrument executed under subclause (1) of this clause shall, subject to that Act,
 20 continue to hold his office as a member of the Dairy Industry Authority of New South Wales until, but excluding—
- (a) the day, occurring not later than 6 months after the date of assent to this Act, specified in the instrument as the last day up to which his term is extended; or
- 25 (b) the day appointed and notified pursuant to section 2 (2) of this Act,
- whichever first occurs.
15. (1) For the purposes of constituting, before the commencement, the panels referred to in clause 1 (1) of Schedule 2— Voting at elections before commencement.
- 30 (a) a registered dairyman, within the meaning of the Authority Act, shall be eligible to vote at an election held pursuant to clause 1 (1) (b) (i) and (f) (i) of that Schedule;
- (b) a registered milk vendor, within the meaning of the Authority Act, who is, by the certificate of registration held by him under that Act, authorised to sell milk from a vehicle, shall be eligible
 35 to vote at an election held pursuant to clause 1 (1) (d) (i) of that Schedule; and

Dairy Industry Marketing Authority.

SCHEDULE 5—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

5 (c) a person (not being a registered dairyman or registered milk
vendor, within the meaning of the Authority Act) holding a
certificate of registration that is in force after having been sent to
him under section 5 (2) of the Industry Act by reason of his
10 being a person in whose name premises were registered under
that Act as a dairy produce factory (other than a person holding
any such certificate of registration bearing an endorsement under
section 5c of that Act specifying that the premises are to be used
only for the manufacture of margarine, within the meaning of this
Act), shall be eligible to vote at an election held pursuant to
clause 1 (1) (e) (i) of that Schedule.

15 (2) Where a person who is eligible to vote at an election by reason
of subclause (1) (a), (b) or (c) of this clause holds 2 or more certificates
of registration under either of the repealed Acts, the holding of each of
which qualifies him to vote at the election, he shall be entitled to cast a
separate vote in that election in respect of each of those certificates of
registration.

BY AUTHORITY

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