

DAIRY INDUSTRY (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Public Service (Dairy Corporation) Amendment Bill, 1983;

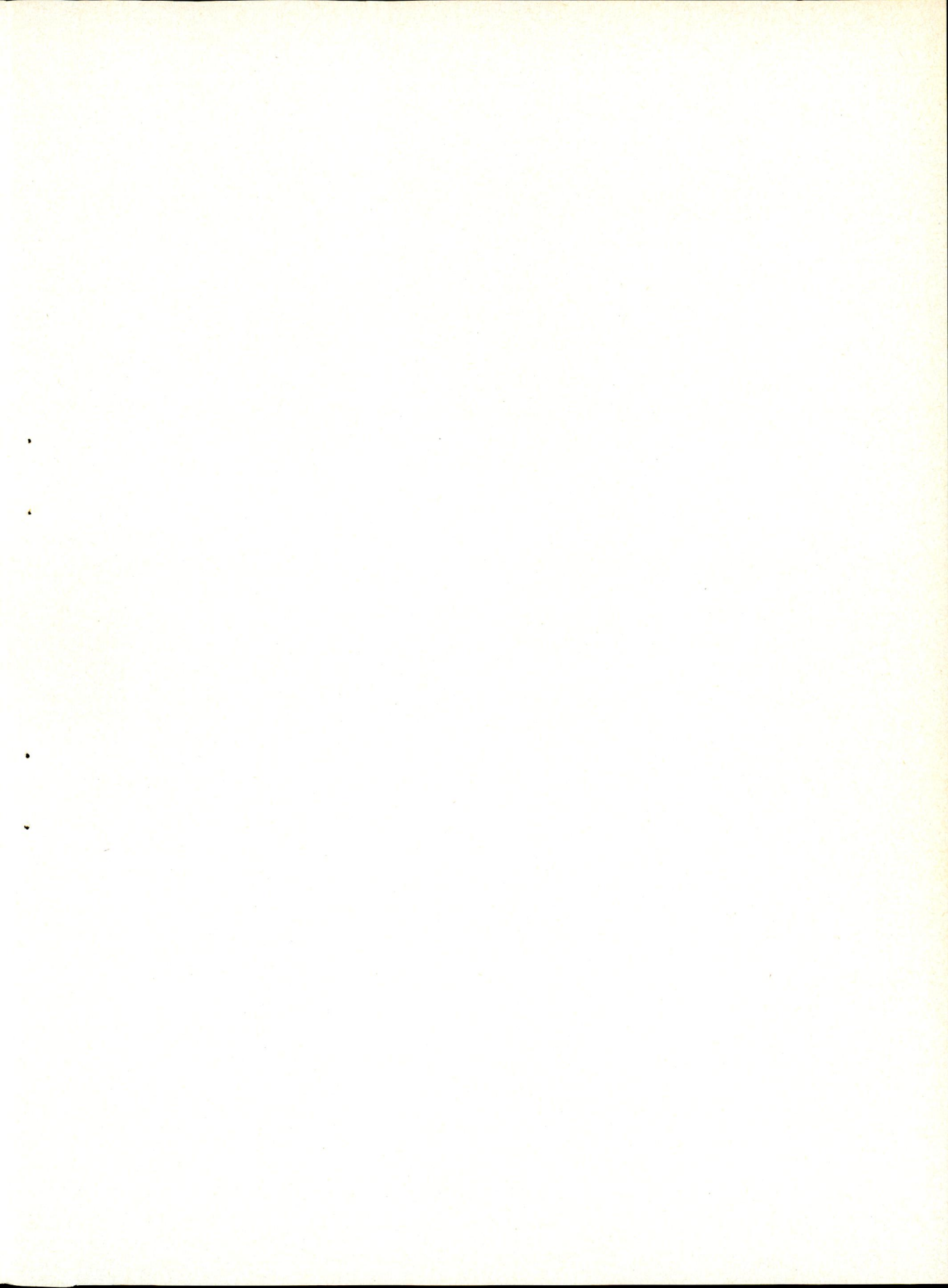
Statutory and Other Offices Remuneration (Dairy Corporation) Amendment Bill, 1983.

The object of this Bill is to amend the Dairy Industry Marketing Authority Act, 1979, so as—

- (a) to constitute a New South Wales Dairy Industry Conference (“the Conference”) which will consist of—
 - (i) persons elected or appointed as prescribed by regulations;
 - (ii) 2 persons nominated by the Minister for Consumer Affairs to represent consumers of milk and dairy products; and
 - (iii) 2 persons nominated by the Labor Council of New South Wales to represent employees in the dairy industry,(Schedule 1 (5)—proposed sections 6A, 6B and 6D);
- (b) to provide for an executive committee of the Conference (Schedule 1 (5)—proposed sections 6C and 6D);
- (c) to make provision for the staff of the Conference and the expenses of the Conference (Schedule 1 (5)—proposed sections 6E and 6F);
- (d) to empower the Conference to—
 - (i) carry out investigations or inquiries into the general policies of the New South Wales Dairy Corporation (“the Corporation”) and generally into the dairy industry; and
 - (ii) report to and advise the Minister on those matters,and to provide for the implementation of any such report or advice by the Minister (Schedule 1 (5)—proposed sections 6G and 6H);
- (e) to replace the Dairy Industry Marketing Authority with the New South Wales Dairy Corporation (Schedule 1 (7));
- (f) to provide for the appointment of the General Manager of the Corporation (who shall manage the affairs of the Corporation) (Schedule 1 (7) and (36));

- (g) to enable a Deputy General Manager of the Corporation to act in the place of the General Manager in certain circumstances (Schedule 1 (7));
- (h) to confer on the Corporation certain powers relating to the conduct of dairy premises and the production of milk (those powers previously being exercised by the Department of Agriculture) (Schedule 1 (10), (11) (a), (12), (13), (14), (19), (22), (23) and (25)); and
- (i) to alter the method for fixing retail and wholesale prices for milk and wholesale prices for certain dairy products declared by the Governor ("declared dairy products") and, in particular—
 - (i) to provide that prices for milk and for declared dairy products shall be fixed by the Corporation instead of the prices being fixed, on the recommendation of the Pricing Committee, by the Minister in certain cases and by the Prices Commission in other cases;
 - (ii) to require those prices to be fixed in accordance with provisions prescribed by the regulations ("the prescribed price-fixing provisions");
 - (iii) to provide for a periodic review of those prices;
 - (iv) to authorise the Minister for Consumer Affairs to refer to the Prices Commission for investigation a proposed alteration in the retail price for certain milk and to enable the Prices Commission to confirm, quash or alter the proposed alteration;
 - (v) to provide for the establishment from time to time of a committee to review the prescribed price-fixing provisions,(Schedule 2).

The Bill also contains savings and transitional provisions and makes other amendments of a minor, consequential or ancillary nature.



PROOF

DAIRY INDUSTRY (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Dairy Industry Marketing Authority Act, 1979, to constitute the New South Wales Dairy Industry Conference, to replace the Dairy Industry Marketing Authority with the New South Wales Dairy Corporation and to alter the method of fixing prices for milk and certain dairy products, and for other purposes.

[MR DAY—1 *December*, 1983.]

See also Public Service (Dairy Corporation) Amendment Bill, 1983; Statutory and Other Offices Remuneration (Dairy Corporation) Amendment Bill, 1983.

Dairy Industry (Amendment).

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

5 Short title.

1. This Act may be cited as the "Dairy Industry (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall
10 commence on the date of assent to this Act.

(2) Schedule 1 and section 5, in its application to Schedule 1, 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) Schedule 2 and section 5, in its application to Schedule 2, shall
15 commence on such day (being a day that is later than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

20 3. The Dairy Industry Marketing Authority Act, 1979, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

25 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE AND THE CORPORATION.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Dairy Industry (Amendment).

Amendment of Act No. 208, 1979.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings, transitional and other provisions.

5 6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION.

10 (1) Long title—

Omit "Dairy Industry Marketing Authority and to define its", insert instead "New South Wales Dairy Industry Conference and the New South Wales Dairy Corporation and to define their".

(2) Section 1—

15 Omit "Marketing Authority".

(3) (a) Section 3—

Omit the matter relating to Part II, insert instead:—

PART IA.—THE NEW SOUTH WALES DAIRY INDUSTRY
CONFERENCE—ss. 6A–6H.

20 DIVISION 1.—*Constitution of the Conference*—ss.
6A–6F.

DIVISION 2.—*Functions of the Conference*—ss. 6G,
6H.

PART II.—THE NEW SOUTH WALES DAIRY CORPORATION—
ss. 7–20.

25 DIVISION 1.—*Constitution of the Corporation*—ss.
7–7B.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

DIVISION 2.—*Functions of the Corporation*—ss. 8–15.

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

(b) Section 3—

From the matter relating to Part III, omit “*Authority*” wherever occurring, insert instead “*Corporation*”.

(c) Section 3—

Omit the matter relating to Division 2 of Part IV.

(d) Section 3—

From the matter relating to Part VI, omit “*AUTHORITY*”, insert instead “*CORPORATION*”.

(e) Section 3—

Omit the matter relating to Schedule 2, insert instead:—

SCHEDULE 2.—PROVISIONS RELATING TO GENERAL
MANAGER.

(4) (a) Section 4 (1), definitions of “*Authority*”, “*Chairman*”, “*Deputy Chairman*”, “*full-time member*”, “*member*”, “*part-time member*”—

Omit the definitions.

(b) Section 4 (1), definition of “*Conference*”—

Before the definition of “*conveyance*”, insert:—

“*Conference*” means the New South Wales Dairy Industry
Conference constituted by this Act;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(c) Section 4 (1), definition of "Corporation"—

5 After the definition of "conveyance", insert:—

"Corporation" means the New South Wales Dairy Corporation
constituted by this Act;

(d) Section 4 (1), definition of "Deputy General Manager"—

Before the definition of "food", insert:—

10 "Deputy General Manager" means an officer of the
Corporation for the time being holding office, or acting,
as a Deputy General Manager of the Corporation;

(e) Section 4 (1), definition of "General Manager"—

Before the definition of "grade", insert:—

15 "General Manager" means the General Manager of the
Corporation;

(f) Section 4 (1), definition of "officer of the Authority"—

From the defined expression, omit "Authority", insert instead
"Corporation".

20 (g) Section 4 (1), definition of "secretary"—

Omit the definition, insert instead:—

"secretary" means the officer of the Corporation for the time
being holding office, or acting, as the secretary of the
Corporation;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(h) Section 4 (4)—

After section 4 (3), insert:—

(4) In this Act, a reference to—

(a) a function includes a reference to a power, authority and
duty; and

(b) the exercise of a function includes, where the function
is a duty, a reference to the performance of the duty.

(5) Part IA—

After Part I, insert:—

PART IA.

THE NEW SOUTH WALES DAIRY INDUSTRY CONFERENCE.

DIVISION 1.—*Constitution of the Conference.*

Constitution of Conference.

6A. (1) There is hereby constituted a corporation under the
corporate name of the "New South Wales Dairy Industry Conference".

(2) The Conference—

(a) shall have and may exercise the functions conferred or
imposed on it by or under this or any other Act; and

(b) does not, for any purpose, represent the Crown.

Members of Conference.

6B. (1) The members of the Conference shall consist of—

(a) such persons as are elected or appointed pursuant to the
regulations under section 6D;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- 5 (b) 2 persons appointed by the Minister, being persons nominated by the Minister for Consumer Affairs to represent consumers of milk and dairy products; and
- (c) 2 persons appointed by the Minister, being persons nominated by the Labor Council of New South Wales to represent employees in the dairy industry.
- 10 (2) Until persons are first elected or appointed as referred to in subsection (1) (a), such persons as the Minister may appoint to represent dairymen and dairy produce merchants shall be members of the Conference instead of the persons referred to in subsection (1) (a).

15 **Executive committee of Conference.**

- 6c. (1) There shall be an executive committee of the Conference consisting of—
- (a) the chairman of the Conference, who shall be the chairman of the executive committee;
- 20 (b) such persons (including at least 1 representative from the producer, processor and distribution sectors of the dairy industry) as may be appointed by the Conference;
- (c) 1 person appointed by the Minister, being a person nominated by the Minister for Consumer Affairs to represent consumers of milk and dairy products;
- 25 (d) 1 person appointed by the Minister, being a person nominated by the Labor Council of New South Wales to represent employees in the dairy industry; and
- (e) the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(2) The General Manager shall not have a vote at any meeting of the executive committee.

(3) The executive committee is responsible for the management of the affairs of the Conference subject to and in accordance with the directions given to that committee by the Conference.

Provisions relating to constitution and procedure of Conference and executive committee.

6D. (1) Except as otherwise provided by this Act, the regulations may make provision for or with respect to—

- (a) the number of members of the Conference;
- (b) the method of, and qualification for, election or appointment of those members;
- (c) the terms of office of those members;
- (d) the chairman of the Conference;
- (e) the procedure for the calling of meetings of the Conference and for the conduct of business at those meetings; and
- (f) any other matter relating to the constitution or procedure of the Conference.

(2) A reference in subsection (1) to the Conference includes a reference to the executive committee of the Conference.

Staff of Conference.

6E. (1) The Conference may appoint and employ such employees as it considers necessary for the purpose of exercising its functions, not exceeding in number the number of employees for the time being approved by the Minister for the purposes of this section.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

5 (2) A person employed under this section shall, subject to
the terms of the person's appointment, continue in the service of the
Conference at the will of the Conference only.

10 (3) A person employed under this section shall be subject to
the sole control and governance of the Conference which may fix
wages and conditions of employment where they are not otherwise
fixed in accordance with law.

 (4) The Public Service Act, 1979, does not apply to or in
respect of the appointment of an employee under this section, and
an employee under this section is not, as such an employee, subject
to that Act.

15 **Financial provisions.**

6F. (1) The Corporation may, out of its funds, make grants to
the Conference for the purposes of paying—

(a) the salaries of the staff of the Conference; and

20 (b) the fees of the chairman of the Conference for attending
meetings.

(2) The Conference may enter into arrangements with
persons or bodies engaged in, or representing persons engaged in,
the dairy industry for contributions to the other costs and expenses
of the Conference.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

DIVISION 2.—*Functions of the Conference.*

5 **Functions of Conference.**

6G. The Conference may—

- (a) carry out investigations or inquiries into the general policies of the Corporation and any other aspect of the dairy industry that it thinks fit; and
- 10 (b) report to and advise the Minister on any matter referred to in paragraph (a).

Reports and advice of Conference furnished to Minister.

15 6H. (1) The Minister shall consider any reports or advice furnished by the Conference in pursuance of section 6G and take such action in the matter as the Minister considers appropriate.

(2) Without affecting the generality of subsection (1), the Minister may, in relation to any report or advice concerning the general policies of the Corporation—

- 20 (a) forward the report or advice to the Corporation for consideration; or
- (b) pursuant to section 7 (4) (c), give such directions to the Corporation in respect of the matter as the Minister considers appropriate.

(6) Part II, heading—

25 Omit the heading, insert instead:—

PART II.

THE NEW SOUTH WALES DAIRY CORPORATION.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(7) Part II, Division 1—

5 Omit the Division, insert instead:—

DIVISION 1.—*Constitution of the Corporation.***Constitution of Corporation.**

7. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Dairy Corporation”.

10 (2) The affairs of the Corporation shall be managed by the General Manager.

15 (3) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the General Manager, or with the authority of the General Manager, shall be deemed to have been done by the Corporation.

(4) The Corporation—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- 20 (b) is, for the purposes of any Act, a statutory body representing the Crown;
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister;
- 25 (d) has perpetual succession;
- (e) shall have an official seal;
- (f) may take proceedings, and be proceeded against, in its corporate name;

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

5 (g) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and

(h) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the Corporation is constituted.

10 (5) The regulations may make provision for or with respect to—

(a) the custody and use of the seal of the Corporation; and

(b) the keeping of records concerning the acts, decisions and proceedings of the Corporation.

15 (6) All courts and persons acting judicially—

(a) shall take judicial notice of the seal of the Corporation that has been fixed to any instrument or document; and

(b) shall, until the contrary is proved, presume that the seal was properly affixed.

20 (7) In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the “Dairy Corporation” shall be read and construed as a reference to the New South Wales Dairy Corporation constituted by this Act.

25 **General Manager.**

7A. (1) There shall be a General Manager of the Corporation who shall be a person appointed by the Governor.

(2) Schedule 2 has effect with respect to the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.***Deputy General Managers.**

5 7B. (1) A Deputy General Manager shall have such functions
as the General Manager directs.

(2) Where—

(a) the General Manager is prevented by illness or absence from
exercising any of the functions of the office of General
10 Manager; or

(b) there is a vacancy in the office of General Manager,
the Deputy General Manager for the time being designated pursuant
to subsection (3) to act for the General Manager shall have the
functions of that office, and any thing done by that Deputy General
15 Manager while acting pursuant to this subsection shall be deemed to
have been done as General Manager.

(3) The General Manager or, if there is a vacancy in the
office of General Manager, the Minister may from time to time
designate a Deputy General Manager to act for the General Manager
20 in the circumstances specified in subsection (2).

(4) No person shall be concerned to inquire whether or not
any occasion has arisen requiring or authorising a Deputy General
Manager to act in the office of General Manager pursuant to
subsection (2).

25 (8) Part II, Division 2, heading—

Omit the heading, insert instead:—

DIVISION 2.—*Functions of the Corporation.*

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- 5 (9) Sections 8, 9, 10, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25,
26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 42, 46, 47, 52, 54, 55, 56, 57,
61, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79,
80, 83, 86, 87, 88, 89, 90, 91, 93, 95, 97, 99, 100, 101, 102, 103,
105—

Omit “Authority” wherever occurring, insert instead “Corporation”.

- 10 (10) Section 8 (a)—

Before “quality”, insert “production,”.

- (11) Section 9 (1) (b)–(d)—

Omit the paragraphs, insert instead:—

- 15 (b) devise and initiate as far as may be practicable improved
methods of producing, collecting, treating, carrying, storing,
distributing, delivering, supplying and using milk, dairy
products and margarine;
- 20 (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 production, collection, treatment, carriage, storage,
distribution, delivery, supply, use or sale of milk, dairy
products and margarine;
- 25 (d) publish reports, information and advice concerning the
production, collection, treatment, carriage, storage,
distribution, delivery, supply, preservation, use and sale of
milk and dairy products, and by these and other means
encourage the consumption of milk and dairy products;

- (12) (a) Section 10 (1) (f)—

- 30 Omit “production of any milk, dairy product or margarine or
the”, insert instead “production,”.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****(b) Section 10 (1) (g)—**

5 Before “dairy produce merchant”, insert “dairyman or any”.

(13) Section 11—

Omit the section, insert instead:—

Directions to take remedial measures.**11. (1) Where it appears to the Corporation—**

- 10 (a) that any substance, article, apparatus or other thing used by
any dairyman or dairy produce merchant in producing or
testing milk, dairy products or margarine is unfit for the
purpose for which it is intended to be used;
- 15 (b) that any substance, article, apparatus or other thing used for
or in connection with milk, dairy products or margarine by a
dairyman, dairy produce merchant or carrier is unfit for that
use;
- 20 (c) that any storage facility or any conveyance used by a dairy-
man, 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
- 25 (d) that any dairy premises, milk store, dairy produce factory or
dairy produce store is unfit for use for or in connection with
an activity that a registered dairyman or dairy produce
merchant is authorised by the certificate of registration to
carry on there,

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

- 30 (e) that the substance, article, apparatus or other thing be made
fit for the purpose for which it is to be used or be replaced
or corrected;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

5 (f) that the substance, article, apparatus or other thing be replaced or made fit for use for or in connection with milk, those dairy products or margarine;

(g) that the storage facility or conveyance be made fit for the purpose of the storage or carriage of milk, those dairy products or margarine; or

10 (h) that the dairy premises, milk store, dairy produce factory or dairy produce store 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.

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

(14) (a) Section 12 (a)—

Before “milk store”, insert “dairy premises,”.

(b) Section 12—

20 After “found at”, insert “those dairy premises or”.

(15) (a) Section 14 (2)—

Omit “advise it”, insert instead “furnish advice”.

(b) Section 14 (4)—

After section 14 (3), insert:—

25 (4) A committee established under subsection (2) shall, at such times as the Corporation may direct, report to the Conference and to the executive committee of the Conference on its work and activities.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(16) Section 17 (1)—

- 5 Omit “and discharging the responsibilities, powers, authorities, duties and functions”, insert instead “the functions”.

(17) Section 18—

Omit the section, insert instead:—

Delegation.

- 10 18. (1) The Corporation may, by instrument in writing, delegate to—

- (a) an officer of the Corporation;
- (b) an officer or a temporary employee of the Department;
- 15 (c) a person for the time being holding or acting in a specified position in the staff establishment of the Corporation or the Department; or
- (d) any person of whose services the Corporation makes use pursuant to this or any other Act,

- 20 the exercise of such of the functions of the Corporation (other than this power of delegation) as are specified in the instrument.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

- 25 (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.

- 30 (4) Notwithstanding any delegation under this section, the Corporation may continue to exercise any function delegated.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

5 (5) Any act or thing done or suffered by a delegate acting
in the exercise of a delegation under this section has the same force
and effect as it would have if it had been done or suffered by the
Corporation and shall be deemed to have been done or suffered by the
Corporation.

10 (6) The Corporation may, by instrument in writing, revoke
wholly or in part any delegation under this section.

15 (7) An instrument purporting to have been signed by a person
in his or her capacity as a delegate of the Corporation shall in all
courts and before all persons acting judicially be received in evidence
as if it were an instrument duly executed by the Corporation and
shall, until the contrary is proved, be deemed to be an instrument
signed by a delegate of the Corporation.

(18) Section 19—

Omit the section, insert instead:—

Authorised agents.

20 19. (1) The Corporation may, by order in writing, appoint any
person to be an authorised agent to act as the Corporation's agent
for the purpose of exercising, in such circumstances as may be
specified in the order, such of the functions of the Corporation as
may be so specified.

25 (2) Where the Corporation appoints an authorised agent
under subsection (1) for the purpose of exercising any functions
of the Corporation, those functions may be carried out by any
employee, or agent, of that authorised agent who is authorised to
do so by that authorised agent.

30 (19) (a) Section 20 (2) (a) (i)—

After "collection," insert "production,".

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- (b) Section 20 (2) (b)—
5 Omit “(other than such part of any dairy premises as is used
for the production of milk)”.
- (c) Section 20 (2) (e)—
 Before “milk store”, insert “dairy premises.”.
- (d) Section 20 (2) (e)—
10 After “registered”, insert “dairyman or”.
- (20) Part III, Division 1, heading—
 Omit “*Authority*”, insert instead “*Corporation*”.
- (21) Part III, Division 2, heading—
 Omit “*Authority*”, insert instead “*Corporation*”.
- 15 (22) (a) Section 28 (1) (a)—
 After “incurred by”, insert “the Conference.”.
- (b) Section 28 (1) (a)—
 Omit “, other than Division 2 of Part IV”.
- (23) (a) Section 32 (7) (d)—
20 Omit “or Division 2 of Part IV”.
- (b) Section 32 (7) (d)—
 Omit “, Division 2 of Part IV”.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(24) Sections 35 (3), 73—

5 Omit “Authority’s” wherever occurring, insert instead
“Corporation’s”.

(25) Part IV, Division 2—

Omit the Division.

(26) Section 42 (2)—

10 Omit “the Health Commission of New South Wales, the Department”,
insert instead “the Secretary of the Department of Health”.

(27) Section 44 (1) (a)—

Before “milk store”, insert “dairy premises,”.

(28) Part VI, heading—

15 Omit “AUTHORITY”, insert instead “CORPORATION”.

(29) Section 62—

Omit “the Authority” wherever occurring, insert instead “the
Corporation”.

(30) Sections 81, 104 (1)—

20 Omit “or 36” wherever occurring.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(31) Section 94—

5 Omit the section, insert instead:—

Proof of certain matters not required.

10 94. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of the appointment of, or the holding of office by, the General Manager, a Deputy General Manager or an officer of the Corporation.

(32) (a) Section 95 (b)—

Omit “Chairman or Deputy Chairman or 2 members”, insert instead “General Manager or a Deputy General Manager”.

(b) Section 95 (b) (i)—

15 Omit “powers, authorities, duties or”.

(33) Section 99 (1), (2), (3)—

Omit “resolution” wherever occurring, insert instead “order”.

(34) Section 102—

20 Omit “any member”, insert instead “the General Manager, a Deputy General Manager”.

(35) (a) Section 103 (1) (m), (1) (p), (9)—

Omit “or the Department” wherever occurring.

(b) Section 103 (1) (o)—

Omit the paragraph, insert instead:—

25 (o) the functions of the Corporation or the Pricing Committee;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(c) Section 103 (6), (7)—

5 Omit the subsections.

(d) Section 103 (9)—

Omit “, as the case may be,”.

(36) Schedule 2—

Omit the Schedule, insert instead:—

10 SCHEDULE 2.

(Sec. 7A (2).)

PROVISIONS RELATING TO GENERAL MANAGER.

Disqualifications.

15 1. (1) A person of or above the age of 65 years is not eligible to be appointed as General Manager.

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 is not eligible to be appointed as General Manager.

Acting General Manager.

25 2. (1) The Governor may, from time to time, appoint a person to act in the office of the General Manager during the illness or absence of the General Manager, and the person, while so acting, shall have and may exercise all the functions of the General Manager.

(2) The Governor may remove any person from any office to which the person was appointed under subclause (1).

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

- 5 (3) A person while acting in the office of the General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of the General Manager shall be deemed to be an absence from office of the General Manager.

(5) In sections 7B and 94 and clauses 1, 8 and 12—

- 10 (a) a reference to the General Manager includes a reference to a person acting in the office of the General Manager;
- (b) a reference to the appointment of the General Manager includes a reference to the appointment of a person to act in the office of the General Manager; and
- 15 (c) a reference to the office of the General Manager includes a reference to the office of a person appointed to act in the office of the General Manager.

Term of office.

- 20 3. Subject to this Schedule, the General Manager shall hold office for such period not exceeding 7 years as may be specified in the instrument of appointment of the General Manager, but is eligible (if otherwise qualified) for re-appointment.

General Manager to hold full-time position.

- 25 4. The General Manager shall devote the whole of his or her time to the duties of the office of General Manager, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

Remuneration.

- 30 5. The General Manager 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 the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****Filling of vacancy in office of General Manager.**

- 5 6. In the event of the office of the General Manager becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) The General Manager shall be deemed to have vacated office if the General Manager—

- 10 (a) dies;
- 15 (b) absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless the absence is occasioned by illness or other unavoidable cause;
- 20 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 25 (d) 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) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) engages in any paid employment outside the duties of the office of General Manager, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
- (g) resigns the office by instrument in writing addressed to the Minister;
- 30 (h) attains the age of 65 years;
- (i) becomes a person who is not eligible to be appointed as General Manager by reason of clause 1 (2);
- (j) is retired from office by the Governor under subclause (2); or
- (k) is removed from office by the Governor under subclause (3).

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

5 (2) The General Manager may, after attaining the age of 60 years and before attaining the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) The Governor may remove the General Manager from office for incapacity, incompetence or misbehaviour.

10 **Public Service Act, 1979, not to apply.**

8. The Public Service Act, 1979, does not apply to or in respect of the appointment of the General Manager and the General Manager is not, as the General Manager, subject to that Act.

Preservation of rights of General Manager previously public servant, etc.

15 9. (1) In this clause—

“statutory body” means any body declared under clause 11 to be a statutory body for the purposes of this Schedule;

20 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of appointment, where the General Manager was, immediately before being appointed as General Manager—

25 (a) an officer of the Public Service or a Teaching Service;

(b) a contributor to a superannuation scheme;

(c) an officer employed by a statutory body; or

(d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

30 he or she—

(e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

5 (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as General Manager; and

(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

10 as if he or she had continued to be such an officer, contributor or person during his or her service as General Manager and—

(h) his or her service as General Manager shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and

15 (i) he or she shall be deemed to be an officer or employee, and the Corporation shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

20 (3) If the General Manager would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as General Manager or at any later time while holding office as General Manager) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to
25 apply to or in respect of him or her and the Corporation in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to the General Manager upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had
30 ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(5) The General Manager shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

35 **General Manager entitled to re-appointment to former employment in certain cases.**

10. (1) In this clause, “statutory body” means any body declared under clause 11 to be a statutory body for the purposes of this Schedule.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

(2) A person who—

- 5 (a) ceases to be General Manager by reason of the expiration of the period for which the person was appointed or by reason of resignation;
- (b) was, immediately before being appointed as General Manager—
- (i) an officer of the Public Service or a Teaching Service; or
- (ii) an officer or employee of a statutory body; and
- 10 (c) has not attained the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,
- 15 shall be entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as General Manager.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b); and
- (b) is after that appointment appointed as General Manager,
- 20 the person shall have such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be General Manager, as are specified in the instrument of appointment as General Manager or as are agreed upon by the person and by or on behalf of the Government.

Declaration of statutory bodies.

- 25 11. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Liability of General Manager, etc.

- 30 12. No matter or thing done by the Corporation, and no matter or thing done by any person acting under the direction of the Corporation shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject the General Manager or a person so acting personally to any action, liability, claim or demand whatever.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.***

(37) (a) Schedule 3, clause 1—

5 Omit the clause, insert instead:—

Members of Pricing Committee.

1. The Pricing Committee shall consist of 3 members, being 3 persons for the time being appointed by the Minister.

(b) Schedule 3, clause 2 (3)—

10 Omit the subclause, insert instead:—

(3) A member of the Pricing Committee for the time being nominated by the Minister shall be the chairman of the Pricing Committee and shall preside at any meeting of the Pricing Committee.

15 (38) Schedule 5, clause 1 (1), definition of “Marketing Authority”—

After “Act”, insert “as in force before the day appointed and notified pursuant to section 2 (2) of the Dairy Industry (Amendment) Act, 1983”.

SCHEDULE 2.

20

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES.

(1) (a) Section 3—

Omit the matter relating to Part V, insert instead:—

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

25

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

(b) Section 3—

5 Omit the matter relating to Schedule 3, insert instead:—

SCHEDULE 3.—CONSTITUTION AND PROCEDURE OF A
REVIEW COMMITTEE.

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

Omit the definition.

10 (3) Section 9 (2A)—

After section 9 (2), insert:—

15 (2A) The Corporation shall, at such times as the Prices Commission may require, report to and confer with the Prices Commission upon productivity changes in the dairy industry, matters generally affecting the administration of Part V and other matters of common interest.

(4) Sections 25 (7), 28 (2)—

Omit “section 55 (9)” wherever occurring, insert instead “section 58”.

20 (5) Section 28 (1) (a)—

Omit “, the Pricing Committee”.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

(6) Part V—

5 Omit the Part, insert instead:—

PART V.

FIXING OF CERTAIN DAIRY INDUSTRY PRICES.

Interpretation.

53. In this Part and Schedule 3—

- 10 “declared dairy product” means a dairy product declared to be a
declared dairy product by an order in force under section 55;
“prescribed price-fixing provisions” means the provisions prescribed
under section 56;
15 “review committee” means a committee established under section
60 (1).

Price for milk to be fixed by Corporation.

54. (1) Subject to this Part, the Corporation may, from time to
time, by order—

- 20 (a) fix the minimum price which may be paid to dairymen for
milk;
(b) fix the price which may be paid to or charged by any
person for the collection, treatment, carriage, storage,
distribution, supply or delivery of milk;
25 (c) fix 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) fix the maximum price at which milk may be sold by retail;

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- 5 (e) fix the price above or below which milk may not be sold by retail; or
- (f) fix 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.
- (2) An order made under subsection (1) may—
- 10 (a) fix 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;
 - 15 (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;
 - 20 (iv) the different purposes for which milk or the milk fat content of milk is to be used;
- (b) fix different prices under subsection (1) (b) according to any one or more of the following criteria:—
- 25 (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;
 - 30 (iii) the different areas in which milk is collected, treated, carried, stored, distributed, supplied or delivered; or

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

5 (c) fix 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;

10 (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;

15 (iv) the different purposes for which milk or the milk fat content of milk is to be used.

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

Price for certain dairy products to be fixed by Corporation.

20 55. (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.

25 (2) Subject to this Part, the Corporation may, from time to time, by order, fix the minimum wholesale prices to be paid to producers of declared dairy products.

30 (3) An order made under subsection (2) may fix 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, 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.

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
—continued.**Prescribed provisions for fixing prices.**

5 56. (1) A price fixed under this Part in respect of milk or a declared dairy product shall be fixed in accordance with such provisions as may be prescribed with respect thereto.

10 (2) Subsection (1) does not apply to a price fixed by an order made on the recommendation of the Prices Commission under section 59.

Periodic review of prices.

57. (1) The Corporation shall undertake a review of the prices fixed under this Part—

15 (a) in the months of March, June, September and December in each year; and

(b) if the Corporation considers that it is necessary in the public interest to undertake such a review at any particular time—
at that time.

20 (2) Upon the completion of any such review in relation to the retail price for standard milk (within the meaning of section 59), the Corporation shall, pursuant to this Part, alter that price unless the Corporation considers that the proposed price would not be significantly different from the existing price.

25 (3) Upon completion of any such review in relation to any other price, the Corporation may, pursuant to this Part, alter that price.

Notification of prices.

58. (1) Subject to section 59, an order made by the Corporation under section 54 or 55 shall be published in the Gazette.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- 5 (2) Prices fixed by an order published under subsection (1) 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 so published.

Special provisions with respect to retail price of certain milk.

- 10 59. (1) In this section, "retail price for standard milk" means a price referred to in section 54 (1) (d) or (e) in respect of milk of a prescribed class.

- 15 (2) Where the Corporation makes an order under section 54 fixing a retail price for standard milk, the Corporation shall, before the order is published in the Gazette, cause such particulars with respect to the order as the Corporation may determine to be published in the Gazette and in a newspaper circulating throughout New South Wales.

- 20 (3) The Minister for Consumer Affairs may, within 7 days after the publication in the Gazette pursuant to subsection (2) of particulars of an order, refer the order to the Prices Commission for investigation.

- 25 (4) The Minister for Consumer Affairs shall not refer an order to the Prices Commission for investigation pursuant to subsection (3) unless that Minister is satisfied that there are sufficient objections to the order to warrant the holding of an investigation.

- 30 (5) The Prices Commission shall hold an investigation into any order referred to it pursuant to subsection (3) and shall report to the Corporation—

- (a) within 14 days after the order was so referred to the Prices Commission; or

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
—continued.

- 5 (b) within such further time as the Minister for Consumer Affairs may allow.

(6) The Prices Commission may, in its report to the Corporation with respect to an order fixing a retail price for standard milk—

- 10 (a) confirm the making of the order;
(b) recommend that the order be revoked; or
(c) recommend that the order be revoked and that such other order be made for fixing that price as the Prices Commission considers appropriate.

- 15 (7) The Corporation shall give effect to a report of the Prices Commission under this section.

Review of prescribed price-fixing provisions.

- 20 60. (1) The Minister may, from time to time, at the request of the Conference or if the Minister considers that it is desirable to do so, establish a committee to review the prescribed price-fixing provisions.

(2) Schedule 3 has effect with respect to the constitution and procedure of a review committee.

- 25 (3) A review committee shall, within such time as the Minister may direct, inquire into, and report to the Minister on, the operation of the prescribed price-fixing provisions.

(4) A review committee shall exercise its functions with a view to—

- (a) facilitating the orderly development of the dairy industry;
(b) preventing undue increases in prices; and

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- 5 (c) ensuring that persons engaged in the dairy industry and consumers enjoy an equitable share of any increase in productivity in that industry.

Offences.

60A. (1) Any person who—

(a) sells—

10 (i) milk by retail at a price exceeding the maximum price fixed by an order in force under section 58 in respect of that milk;

15 (ii) milk by wholesale at a price other than the price so fixed 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 so fixed as the price above or below which that milk may not be sold by retail,

20 with knowledge, where the price so fixed 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 fixed in respect thereof,

25 is guilty of an offence against this Act.

(2) Any person—

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

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
—continued.

- 5 (b) who buys, by wholesale, a declared dairy product from the
producer thereof,
at a price less than the wholesale price fixed by an order in force
under section 58 in respect of that declared dairy product is guilty
of an offence against this Act.

Effect of price fixing on contracts.

- 10 60B. (1) If, after any agreement is made for the sale and purchase
of milk, the Corporation in the exercise of its powers under this Part
fixes any price which affects either directly or indirectly the price
to be paid to a dairyman under that agreement for milk supplied for
15 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
use by humans, as milk, that agreement shall, as on and from the
date the order fixing the price takes effect, be deemed to be altered as
20 follows:—
- (a) where any minimum price to be paid to a dairyman for milk
so supplied is so fixed, the price so fixed shall be substituted
for the agreed price in the agreement where the agreed price
is less than the minimum price fixed in respect of milk of
25 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 fixed for the collection, treatment,
30 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;

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

5 (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)—

10 (i) if the variation operates to increase the cost of the milk to the dairy produce merchant he or she may add to the agreed price in the agreement the net amount of the increase applicable to that milk; and

15 (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,

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

(2) An order in force under section 58 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;

25 (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 supplied, under an agreement made before the order takes effect.

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
*—continued.***Prices not to be fixed under other Acts, etc.**

5 60c. (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.

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

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

(7) Section 103 (1) (o)—

Omit “or the Pricing Committee”.

20 (8) Schedule 3—

Omit the Schedule, insert instead:—

SCHEDULE 3.

(Sec. 60.)

CONSTITUTION AND PROCEDURE OF A REVIEW COMMITTEE.

25 **Constitution.**

1. (1) A review committee shall consist of—

(a) a person appointed by the Minister who shall be the chairman of the committee;

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
—continued.

- 5 (b) a person (not being a member of the Conference) appointed by the Minister to represent consumers of milk and dairy products; and
- (c) 2 persons appointed by the Minister on the nomination of the Conference.

10 (2) A person appointed by the Minister for the purpose may, during the illness or absence of a member of a review committee, act in the office of the member.

Procedure at meetings of review committee.

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

15 (2) The Minister shall call the first meeting of a review committee in such manner as the Minister thinks fit.

(3) The chairman of a review committee shall preside at any meeting of the committee.

20 (4) Three members of a review committee (including the chairman) shall form the quorum for its meetings.

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

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

Dairy Industry (Amendment).

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

5 1. (1) In this Schedule—

“first appointed day” means the day appointed and notified under section 2 (2);

“former Authority” means the Dairy Industry Marketing Authority constituted under section 7 (1) of the Principal Act, as in force immediately before the first appointed day;

10 “former full-time member” means a person who was, immediately before the first appointed day, a full-time member of the former Authority within the meaning of the Principal Act, as in force immediately before that day;

“second appointed day” means the day appointed and notified under section 2 (3).

15 (2) Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the meanings ascribed to those expressions in the Principal Act.

Members of former Authority holding office immediately before the first appointed day.

2. (1) A person who, immediately before the first appointed day, held office as a member of the former Authority shall cease to hold office as such on that day.

20 (2) A person who ceases to hold office as a member of the former Authority by reason of the operation of this Act is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office, but nothing in this subclause prevents the payment to that person out of the funds of the Corporation of such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal
25 determines.

30 (3) A person who, immediately before the first appointed day, held office as a full-time member of the former Authority and who ceases to hold that office by reason of the operation of this Act, is, if the person is not appointed as General Manager or a Deputy General Manager with effect on and from that day, entitled to be appointed to some position in the service of the Government, but is not entitled, by virtue of this subclause, to hold that position—

(a) after the day on which the term of office for which the person had been appointed to the former Authority expires; or

(b) after being appointed as General Manager or a Deputy General Manager,

35 whichever first occurs.

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(4) A person referred to in subclause (3) is, until—

5 (a) the day on which the term of office for which the person had been appointed to the former Authority expires; or

(b) the day on which the person ceases to hold the position to which the person is appointed pursuant to subclause (3),

10 whichever first occurs, entitled to be paid such salary as the Statutory and Other Offices Remuneration Tribunal may from time to time determine in relation to the person, not lower than the salary payable to the person immediately before the first appointed day.

(5) Pending the making of the relevant determination under subclause (4) salary shall continue to be paid to a person referred to in subclause (3) at the rate at which it was payable to the person immediately before the first appointed day.

15 (6) A reference in this clause to a position in the service of the Government includes a reference to an office or position as a member, officer or employee of a body constituted by an Act.

(7) A full-time member of the former Authority who was, immediately before the first appointed day, a contributor within the meaning of the Superannuation Act,
20 1916—

(a) shall retain any rights that had accrued or were accruing to that member under that Act; and

25 (b) shall, while that member holds a position to which that member was appointed pursuant to subclause (3) or is an officer of the Corporation, continue to be a contributor within the meaning of that Act.

Continuity of Corporation.

3. The Corporation is a continuation of, and the same legal entity as, the former Authority.

References to certain former offices, etc.

30 4. (1) On and from the first appointed day, in any Act, in any instrument made under any Act or in any other instrument of any kind (whether enacted, made or executed before or after the first appointed day) a reference, or a reference required immediately before that day to be read and construed as a reference—

35 (a) to the former Authority shall be read and construed as a reference to the Corporation;

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) to the Chairman of the former Authority shall be read and construed as a reference to the General Manager;
- 5 (c) to the Deputy Chairman of the former Authority shall be read and construed as a reference to a Deputy General Manager; or
- (d) to the Dairy Industry Marketing Authority Act, 1979, shall be read and construed as a reference to the Dairy Industry Act, 1979.
- (2) Subclause (1) does not apply to any determination under the Statutory
10 and Other Offices Remuneration Act, 1975.

First meeting of Conference, etc.

5. (1) The Minister shall call the first meeting of the Conference on or after the first appointed day in such manner as the Minister thinks fit, and may appoint a member of the Conference to preside at that meeting.
- 15 (2) Until regulations are made under section 6D of the Principal Act, as amended by this Act, the procedure for the calling of meetings of the Conference and the executive committee of the Conference, and for the conduct of business at those meetings (including the appointment of a person to preside at those meetings) shall, subject to the Principal Act and this Act, be as determined by the Conference or that
20 committee, as the case may be.

Delegation.

6. A delegation under section 18 of the Principal Act and in force immediately before the first appointed day shall, if the delegate is, on that day, an officer of the Corporation or an officer or a temporary employee of the Department, be deemed to be
25 a delegation under section 18 of the Principal Act, as amended by this Act.

Authorised agents.

7. An appointment of an authorised agent under section 19 of the Principal Act and in force immediately before the first appointed day shall be deemed to be an appointment under section 19 of the Principal Act, as amended by this Act.

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Existing orders fixing prices.

- 5 8. An order in force under section 55 (9) of the Principal Act immediately before the second appointed day shall, on that day, be deemed to be an order in force under section 58 of the Principal Act, as amended by this Act.

Regulations.

9. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- 10 (2) A provision made under subclause (1) may take effect as from the first appointed day or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 15 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the
- 20 date of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

DAIRY INDUSTRY (AMENDMENT) ACT, 1983, No. 156

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 156, 1983.

An Act to amend the Dairy Industry Marketing Authority Act, 1979, to constitute the New South Wales Dairy Industry Conference, to replace the Dairy Industry Marketing Authority with the New South Wales Dairy Corporation and to alter the method of fixing prices for milk and certain dairy products, and for other purposes. [Assented to, 31st December, 1983.]

See also Public Service (Dairy Corporation) Amendment Act, 1983; Statutory and Other Offices Remuneration (Dairy Corporation) Amendment Act, 1983.

Dairy Industry (Amendment).

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

Short title.

1. This Act may be cited as the "Dairy Industry (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Schedule 1 and section 5, in its application to Schedule 1, 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) Schedule 2 and section 5, in its application to Schedule 2, shall commence on such day (being a day that is later than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Dairy Industry Marketing Authority Act, 1979, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE AND THE CORPORATION.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Dairy Industry (Amendment).

Amendment of Act No. 208, 1979.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings, transitional and other provisions.

6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION.

(1) Long title—

Omit "Dairy Industry Marketing Authority and to define its", insert instead "New South Wales Dairy Industry Conference and the New South Wales Dairy Corporation and to define their".

(2) Section 1—

Omit "Marketing Authority".

(3) (a) Section 3—

Omit the matter relating to Part II, insert instead:—

PART IA.—THE NEW SOUTH WALES DAIRY INDUSTRY
CONFERENCE—ss. 6A–6H.

DIVISION 1.—*Constitution of the Conference*—ss.
6A–6F.

DIVISION 2.—*Functions of the Conference*—ss. 6G,
6H.

PART II.—THE NEW SOUTH WALES DAIRY CORPORATION—
ss. 7–20.

DIVISION 1.—*Constitution of the Corporation*—ss.
7–7B.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*DIVISION 2.—*Functions of the Corporation—ss. 8–15.*DIVISION 3.—*Administrative Matters—ss. 16–20.*

(b) Section 3—

From the matter relating to Part III, omit “*Authority*” wherever occurring, insert instead “*Corporation*”.

(c) Section 3—

Omit the matter relating to Division 2 of Part IV.

(d) Section 3—

From the matter relating to Part VI, omit “*AUTHORITY*”, insert instead “*CORPORATION*”.

(e) Section 3—

Omit the matter relating to Schedule 2, insert instead:—

SCHEDULE 2.—PROVISIONS RELATING TO GENERAL
MANAGER.

- (4) (a) Section 4 (1), definitions of “*Authority*”, “*Chairman*”, “*Deputy Chairman*”, “*full-time member*”, “*member*”, “*part-time member*”—

Omit the definitions.

(b) Section 4 (1), definition of “*Conference*”—

Before the definition of “*conveyance*”, insert:—

“*Conference*” means the New South Wales Dairy Industry
Conference constituted by this Act;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(c) Section 4 (1), definition of "Corporation"—

After the definition of "conveyance", insert:—

"Corporation" means the New South Wales Dairy Corporation
constituted by this Act;

(d) Section 4 (1), definition of "Deputy General Manager"—

Before the definition of "food", insert:—

"Deputy General Manager" means an officer of the
Corporation for the time being holding office, or acting,
as a Deputy General Manager of the Corporation;

(e) Section 4 (1), definition of "General Manager"—

Before the definition of "grade", insert:—

"General Manager" means the General Manager of the
Corporation;

(f) Section 4 (1), definition of "officer of the Authority"—

From the defined expression, omit "Authority", insert instead
"Corporation".

(g) Section 4 (1), definition of "secretary"—

Omit the definition, insert instead:—

"secretary" means the officer of the Corporation for the time
being holding office, or acting, as the secretary of the
Corporation;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(h) Section 4 (4)—

After section 4 (3), insert:—

(4) In this Act, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(5) Part IA—

After Part I, insert:—

PART IA.

THE NEW SOUTH WALES DAIRY INDUSTRY CONFERENCE.

DIVISION 1.—*Constitution of the Conference.***Constitution of Conference.**

6A. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Dairy Industry Conference”.

(2) The Conference—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- (b) does not, for any purpose, represent the Crown.

Members of Conference.

6B. (1) The members of the Conference shall consist of—

- (a) such persons as are elected or appointed pursuant to the regulations under section 6D;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- (b) 2 persons appointed by the Minister, being persons nominated by the Minister for Consumer Affairs to represent consumers of milk and dairy products; and
- (c) 2 persons appointed by the Minister, being persons nominated by the Labor Council of New South Wales to represent employees in the dairy industry.

(2) Until persons are first elected or appointed as referred to in subsection (1) (a), such persons as the Minister may appoint to represent dairymen and dairy produce merchants shall be members of the Conference instead of the persons referred to in subsection (1) (a).

Executive committee of Conference.

6c. (1) There shall be an executive committee of the Conference consisting of—

- (a) the chairman of the Conference, who shall be the chairman of the executive committee;
- (b) such persons (including at least 1 representative from the producer, processor and distribution sectors of the dairy industry) as may be appointed by the Conference;
- (c) 1 person appointed by the Minister, being a person nominated by the Minister for Consumer Affairs to represent consumers of milk and dairy products;
- (d) 1 person appointed by the Minister, being a person nominated by the Labor Council of New South Wales to represent employees in the dairy industry; and
- (e) the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

(2) The General Manager shall not have a vote at any meeting of the executive committee.

(3) The executive committee is responsible for the management of the affairs of the Conference subject to and in accordance with the directions given to that committee by the Conference.

Provisions relating to constitution and procedure of Conference and executive committee.

6D. (1) Except as otherwise provided by this Act, the regulations may make provision for or with respect to—

- (a) the number of members of the Conference;
- (b) the method of, and qualification for, election or appointment of those members;
- (c) the terms of office of those members;
- (d) the chairman of the Conference;
- (e) the procedure for the calling of meetings of the Conference and for the conduct of business at those meetings; and
- (f) any other matter relating to the constitution or procedure of the Conference.

(2) A reference in subsection (1) to the Conference includes a reference to the executive committee of the Conference.

Staff of Conference.

6E. (1) The Conference may appoint and employ such employees as it considers necessary for the purpose of exercising its functions, not exceeding in number the number of employees for the time being approved by the Minister for the purposes of this section.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(2) A person employed under this section shall, subject to the terms of the person's appointment, continue in the service of the Conference at the will of the Conference only.

(3) A person employed under this section shall be subject to the sole control and governance of the Conference which may fix wages and conditions of employment where they are not otherwise fixed in accordance with law.

(4) The Public Service Act, 1979, does not apply to or in respect of the appointment of an employee under this section, and an employee under this section is not, as such an employee, subject to that Act.

Financial provisions.

6F. (1) The Corporation may, out of its funds, make grants to the Conference for the purposes of paying—

- (a) the salaries of the staff of the Conference; and
- (b) the fees of the chairman of the Conference for attending meetings.

(2) The Conference may enter into arrangements with persons or bodies engaged in, or representing persons engaged in, the dairy industry for contributions to the other costs and expenses of the Conference.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*****DIVISION 2.—*Functions of the Conference.*****Functions of Conference.**

6G. The Conference may—

- (a) carry out investigations or inquiries into the general policies of the Corporation and any other aspect of the dairy industry that it thinks fit; and
- (b) report to and advise the Minister on any matter referred to in paragraph (a).

Reports and advice of Conference furnished to Minister.

6H. (1) The Minister shall consider any reports or advice furnished by the Conference in pursuance of section 6G and take such action in the matter as the Minister considers appropriate.

(2) Without affecting the generality of subsection (1), the Minister may, in relation to any report or advice concerning the general policies of the Corporation—

- (a) forward the report or advice to the Corporation for consideration; or
- (b) pursuant to section 7 (4) (c), give such directions to the Corporation in respect of the matter as the Minister considers appropriate.

(6) Part II, heading—

Omit the heading, insert instead:—

PART II.

THE NEW SOUTH WALES DAIRY CORPORATION.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(7) Part II, Division 1—

Omit the Division, insert instead:—

DIVISION 1.—*Constitution of the Corporation.*

Constitution of Corporation.

7. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Dairy Corporation”.

(2) The affairs of the Corporation shall be managed by the General Manager.

(3) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the General Manager, or with the authority of the General Manager, shall be deemed to have been done by the Corporation.

(4) The Corporation—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- (b) is, for the purposes of any Act, a statutory body representing the Crown;
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister;
- (d) has perpetual succession;
- (e) shall have an official seal;
- (f) may take proceedings, and be proceeded against, in its corporate name;

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

- (g) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (h) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the Corporation is constituted.

(5) The regulations may make provision for or with respect to—

- (a) the custody and use of the seal of the Corporation; and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Corporation.

(6) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Corporation that has been fixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

(7) In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Dairy Corporation" shall be read and construed as a reference to the New South Wales Dairy Corporation constituted by this Act.

General Manager.

7A. (1) There shall be a General Manager of the Corporation who shall be a person appointed by the Governor.

(2) Schedule 2 has effect with respect to the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

Deputy General Managers.

7B. (1) A Deputy General Manager shall have such functions as the General Manager directs.

(2) Where—

(a) the General Manager is prevented by illness or absence from exercising any of the functions of the office of General Manager; or

(b) there is a vacancy in the office of General Manager,

the Deputy General Manager for the time being designated pursuant to subsection (3) to act for the General Manager shall have the functions of that office, and any thing done by that Deputy General Manager while acting pursuant to this subsection shall be deemed to have been done as General Manager.

(3) The General Manager or, if there is a vacancy in the office of General Manager, the Minister may from time to time designate a Deputy General Manager to act for the General Manager in the circumstances specified in subsection (2).

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a Deputy General Manager to act in the office of General Manager pursuant to subsection (2).

(8) Part II, Division 2, heading—

Omit the heading, insert instead:—

DIVISION 2.—*Functions of the Corporation.*

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- (9) Sections 8, 9, 10, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 42, 46, 47, 52, 54, 55, 56, 57, 61, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 83, 86, 87, 88, 89, 90, 91, 93, 95, 97, 99, 100, 101, 102, 103, 105—

Omit “Authority” wherever occurring, insert instead “Corporation”.

- (10) Section 8 (a)—

Before “quality”, insert “production,”.

- (11) Section 9 (1) (b)–(d)—

Omit the paragraphs, insert instead:—

- (b) devise and initiate as far as may be practicable improved methods of producing, collecting, treating, carrying, storing, distributing, delivering, supplying and using milk, 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 production, collection, treatment, carriage, storage, distribution, delivery, supply, use or sale of milk, dairy products and margarine;
- (d) publish reports, information and advice concerning the production, collection, treatment, carriage, storage, distribution, delivery, supply, preservation, use and sale of milk and dairy products, and by these and other means encourage the consumption of milk and dairy products;

- (12) (a) Section 10 (1) (f)—

Omit “production of any milk, dairy product or margarine or the”, insert instead “production,”.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****(b) Section 10 (1) (g)—**

Before “dairy produce merchant”, insert “dairyman or any”.

(13). Section 11—

Omit the section, insert instead:—

Directions to take remedial measures.**11. (1) Where it appears to the Corporation—**

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

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

- (e) that the substance, article, apparatus or other thing be made fit for the purpose for which it is to be used or be replaced or corrected;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.***

- (f) that the substance, article, apparatus or other thing be replaced or made fit for use for or in connection with milk, those dairy products or margarine;
- (g) that the storage facility or conveyance be made fit for the purpose of the storage or carriage of milk, those dairy products or margarine; or
- (h) that the dairy premises, milk store, dairy produce factory or dairy produce store 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 the person under subsection (1) is guilty of an offence against this Act.

(14) (a) Section 12 (a)—

Before “milk store”, insert “dairy premises,”.

(b) Section 12—

After “found at”, insert “those dairy premises or”.

(15) (a) Section 14 (2)—

Omit “advise it”, insert instead “furnish advice”.

(b) Section 14 (4)—

After section 14 (3), insert:—

(4) A committee established under subsection (2) shall, at such times as the Corporation may direct, report to the Conference and to the executive committee of the Conference on its work and activities.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****(16) Section 17 (1)—**

Omit “and discharging the responsibilities, powers, authorities, duties and functions”, insert instead “the functions”.

(17) Section 18—

Omit the section, insert instead:—

Delegation.

18. (1) The Corporation may, by instrument in writing, delegate to—

- (a) an officer of the Corporation;
- (b) an officer or a temporary employee of the Department;
- (c) a person for the time being holding or acting in a specified position in the staff establishment of the Corporation or the Department; or
- (d) any person of whose services the Corporation makes use pursuant to this or any other Act,

the exercise of such of the functions of the Corporation (other than this power of delegation) as are specified in the instrument.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation under this section, the Corporation may continue to exercise any function delegated.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

(5) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Corporation and shall be deemed to have been done or suffered by the Corporation.

(6) The Corporation may, by instrument in writing, revoke wholly or in part any delegation under this section.

(7) An instrument purporting to have been signed by a person in his or her capacity as a delegate of the Corporation shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Corporation and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Corporation.

(18) Section 19—

Omit the section, insert instead:—

Authorised agents.

19. (1) The Corporation may, by order in writing, appoint any person to be an authorised agent to act as the Corporation's agent for the purpose of exercising, in such circumstances as may be specified in the order, such of the functions of the Corporation as may be so specified.

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

(19) (a) Section 20 (2) (a) (i)—

After "collection," insert "production,".

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

- (b) Section 20 (2) (b)—
Omit “(other than such part of any dairy premises as is used
for the production of milk)”.
- (c) Section 20 (2) (e)—
Before “milk store”, insert “dairy premises”.
- (d) Section 20 (2) (e)—
After “registered”, insert “dairyman or”.
- (20) Part III, Division 1, heading—
Omit “*Authority*”, insert instead “*Corporation*”.
- (21) Part III, Division 2, heading—
Omit “*Authority*”, insert instead “*Corporation*”.
- (22) (a) Section 28 (1) (a)—
After “incurred by”, insert “the Conference,”.
- (b) Section 28 (1) (a)—
Omit “, other than Division 2 of Part IV”.
- (23) (a) Section 32 (7) (d)—
Omit “or Division 2 of Part IV”.
- (b) Section 32 (7) (d)—
Omit “, Division 2 of Part IV”.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(24) Sections 35 (3), 73—

Omit "Authority's" wherever occurring, insert instead
"Corporation's".

(25) Part IV, Division 2—

Omit the Division.

(26) Section 42 (2)—

Omit "the Health Commission of New South Wales, the Department",
insert instead "the Secretary of the Department of Health".

(27) Section 44 (1) (a)—

Before "milk store", insert "dairy premises,".

(28) Part VI, heading—

Omit "AUTHORITY", insert instead "CORPORATION".

(29) Section 62—

Omit "the Authority" wherever occurring, insert instead "the
Corporation".

(30) Sections 81, 104 (1)—

Omit "or 36" wherever occurring.

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(31) Section 94—

Omit the section, insert instead:—

Proof of certain matters not required.

94. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of the appointment of, or the holding of office by, the General Manager, a Deputy General Manager or an officer of the Corporation.

(32) (a) Section 95 (b)—

Omit “Chairman or Deputy Chairman or 2 members”, insert instead “General Manager or a Deputy General Manager”.

(b) Section 95 (b) (i)—

Omit “powers, authorities, duties or”.

(33) Section 99 (1), (2), (3)—

Omit “resolution” wherever occurring, insert instead “order”.

(34) Section 102—

Omit “any member”, insert instead “the General Manager, a Deputy General Manager”.

(35) (a) Section 103 (1) (m), (1) (p), (9)—

Omit “or the Department” wherever occurring.

(b) Section 103 (1) (o)—

Omit the paragraph, insert instead:—

- (o) the functions of the Corporation or the Pricing Committee;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.*

(c) Section 103 (6), (7)—

Omit the subsections.

(d) Section 103 (9)—

Omit “, as the case may be,”.

(36) Schedule 2—

Omit the Schedule, insert instead:—

SCHEDULE 2.

(Sec. 7A (2).)

PROVISIONS RELATING TO GENERAL MANAGER.

Disqualifications.

1. (1) A person of or above the age of 65 years is not eligible to be appointed as General Manager.

(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 is not eligible to be appointed as General Manager.

Acting General Manager.

2. (1) The Governor may, from time to time, appoint a person to act in the office of the General Manager during the illness or absence of the General Manager, and the person, while so acting, shall have and may exercise all the functions of the General Manager.

(2) The Governor may remove any person from any office to which the person was appointed under subclause (1).

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.**

(3) A person while acting in the office of the General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of the General Manager shall be deemed to be an absence from office of the General Manager.

(5) In sections 7B and 94 and clauses 1, 8 and 12—

- (a) a reference to the General Manager includes a reference to a person acting in the office of the General Manager;
- (b) a reference to the appointment of the General Manager includes a reference to the appointment of a person to act in the office of the General Manager; and
- (c) a reference to the office of the General Manager includes a reference to the office of a person appointed to act in the office of the General Manager.

Term of office.

3. Subject to this Schedule, the General Manager shall hold office for such period not exceeding 7 years as may be specified in the instrument of appointment of the General Manager, but is eligible (if otherwise qualified) for re-appointment.

General Manager to hold full-time position.

4. The General Manager shall devote the whole of his or her time to the duties of the office of General Manager, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

Remuneration.

5. The General Manager 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 the General Manager.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****Filling of vacancy in office of General Manager.**

6. In the event of the office of the General Manager becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) The General Manager shall be deemed to have vacated office if the General Manager—

- (a) dies;
- (b) absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless the absence is occasioned by illness or other unavoidable cause;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) 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) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) engages in any paid employment outside the duties of the office of General Manager, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
- (g) resigns the office by instrument in writing addressed to the Minister;
- (h) attains the age of 65 years;
- (i) becomes a person who is not eligible to be appointed as General Manager by reason of clause 1 (2);
- (j) is retired from office by the Governor under subclause (2); or
- (k) is removed from office by the Governor under subclause (3).

Dairy Industry (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.***

(2) The General Manager may, after attaining the age of 60 years and before attaining the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) The Governor may remove the General Manager from office for incapacity, incompetence or misbehaviour.

Public Service Act, 1979, not to apply.

8. The Public Service Act, 1979, does not apply to or in respect of the appointment of the General Manager and the General Manager is not, as the General Manager, subject to that Act.

Preservation of rights of General Manager previously public servant, etc.

9. (1) In this clause—

“statutory body” means any body declared under clause 11 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of appointment, where the General Manager was, immediately before being appointed as General Manager—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;

Dairy Industry (Amendment).

SCHEDULE 1—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—*continued.***

(f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as General Manager; and

(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as General Manager and—

(h) his or her service as General Manager shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and

(i) he or she shall be deemed to be an officer or employee, and the Corporation shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If the General Manager would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as General Manager or at any later time while holding office as General Manager) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Corporation in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to the General Manager upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(5) The General Manager shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

General Manager entitled to re-appointment to former employment in certain cases.

10. (1) In this clause, "statutory body" means any body declared under clause 11 to be a statutory body for the purposes of this Schedule.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****(2) A person who—**

- (a) ceases to be General Manager by reason of the expiration of the period for which the person was appointed or by reason of resignation;
- (b) was, immediately before being appointed as General Manager—
 - (i) an officer of the Public Service or a Teaching Service; or
 - (ii) an officer or employee of a statutory body; and
- (c) has not attained the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

shall be entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as General Manager.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b); and

- (b) is after that appointment appointed as General Manager,

the person shall have such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be General Manager, as are specified in the instrument of appointment as General Manager or as are agreed upon by the person and by or on behalf of the Government.

Declaration of statutory bodies.

11. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Liability of General Manager, etc.

12. No matter or thing done by the Corporation, and no matter or thing done by any person acting under the direction of the Corporation shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject the General Manager or a person so acting personally to any action, liability, claim or demand whatever.

Dairy Industry (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONFERENCE
AND THE CORPORATION—continued.****(37) (a) Schedule 3, clause 1—**

Omit the clause, insert instead:—

Members of Pricing Committee.

1. The Pricing Committee shall consist of 3 members, being 3 persons for the time being appointed by the Minister.

(b) Schedule 3, clause 2 (3)—

Omit the subclause, insert instead:—

(3) A member of the Pricing Committee for the time being nominated by the Minister shall be the chairman of the Pricing Committee and shall preside at any meeting of the Pricing Committee.

(38) Schedule 5, clause 1 (1), definition of “Marketing Authority”—

After “Act”, insert “as in force before the day appointed and notified pursuant to section 2 (2) of the Dairy Industry (Amendment) Act, 1983”.

SCHEDULE 2.**(Sec. 5.)****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES.****(1) (a) Section 3—**

Omit the matter relating to Part V, insert instead:—

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

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

(b) Section 3—

Omit the matter relating to Schedule 3, insert instead:—

SCHEDULE 3.—CONSTITUTION AND PROCEDURE OF A
REVIEW COMMITTEE.

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

Omit the definition.

(3) Section 9 (2A)—

After section 9 (2), insert:—

(2A) The Corporation shall, at such times as the Prices Commission may require, report to and confer with the Prices Commission upon productivity changes in the dairy industry, matters generally affecting the administration of Part V and other matters of common interest.

(4) Sections 25 (7), 28 (2)—

Omit “section 55 (9)” wherever occurring, insert instead “section 58”.

(5) Section 28 (1) (a)—

Omit “, the Pricing Committee”.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

(6) Part V—

Omit the Part, insert instead:—

PART V.

FIXING OF CERTAIN DAIRY INDUSTRY PRICES.

Interpretation.

53. In this Part and Schedule 3—

“declared dairy product” means a dairy product declared to be a declared dairy product by an order in force under section 55;

“prescribed price-fixing provisions” means the provisions prescribed under section 56;

“review committee” means a committee established under section 60 (1).

Price for milk to be fixed by Corporation.

54. (1) Subject to this Part, the Corporation may, from time to time, by order—

- (a) fix the minimum price which may be paid to dairymen for milk;
- (b) fix 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) fix 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) fix the maximum price at which milk may be sold by retail;

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- (e) fix the price above or below which milk may not be sold by retail; or
 - (f) fix 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.
- (2) An order made under subsection (1) may—
- (a) fix 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;
 - (iv) the different purposes for which milk or the milk fat content of milk is to be used;
 - (b) fix 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

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- (c) fix 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) An order made under subsection (1) may describe the quality of milk wholly or partly by reference to the milk fat content of the milk.

Price for certain dairy products to be fixed by Corporation.

55. (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.

(2) Subject to this Part, the Corporation may, from time to time, by order, fix the minimum wholesale prices to be paid to producers of declared dairy products.

(3) An order made under subsection (2) may fix 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, 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.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

Prescribed provisions for fixing prices.

56. (1) A price fixed under this Part in respect of milk or a declared dairy product shall be fixed in accordance with such provisions as may be prescribed with respect thereto.

(2) Subsection (1) does not apply to a price fixed by an order made on the recommendation of the Prices Commission under section 59.

Periodic review of prices.

57. (1) The Corporation shall undertake a review of the prices fixed under this Part—

- (a) in the months of March, June, September and December in each year; and
- (b) if the Corporation considers that it is necessary in the public interest to undertake such a review at any particular time—
at that time.

(2) Upon the completion of any such review in relation to the retail price for standard milk (within the meaning of section 59), the Corporation shall, pursuant to this Part, alter that price unless the Corporation considers that the proposed price would not be significantly different from the existing price.

(3) Upon completion of any such review in relation to any other price, the Corporation may, pursuant to this Part, alter that price.

Notification of prices.

58. (1) Subject to section 59, an order made by the Corporation under section 54 or 55 shall be published in the Gazette.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

(2) Prices fixed by an order published under subsection (1) 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 so published.

Special provisions with respect to retail price of certain milk.

59. (1) In this section, "retail price for standard milk" means a price referred to in section 54 (1) (d) or (e) in respect of milk of a prescribed class.

(2) Where the Corporation makes an order under section 54 fixing a retail price for standard milk, the Corporation shall, before the order is published in the Gazette, cause such particulars with respect to the order as the Corporation may determine to be published in the Gazette and in a newspaper circulating throughout New South Wales.

(3) The Minister for Consumer Affairs may, within 7 days after the publication in the Gazette pursuant to subsection (2) of particulars of an order, refer the order to the Prices Commission for investigation.

(4) The Minister for Consumer Affairs shall not refer an order to the Prices Commission for investigation pursuant to subsection (3) unless that Minister is satisfied that there are sufficient objections to the order to warrant the holding of an investigation.

(5) The Prices Commission shall hold an investigation into any order referred to it pursuant to subsection (3) and shall report to the Corporation—

- (a) within 14 days after the order was so referred to the Prices Commission; or

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- (b) within such further time as the Minister for Consumer Affairs may allow.

(6) The Prices Commission may, in its report to the Corporation with respect to an order fixing a retail price for standard milk—

- (a) confirm the making of the order;
- (b) recommend that the order be revoked; or
- (c) recommend that the order be revoked and that such other order be made for fixing that price as the Prices Commission considers appropriate.

(7) The Corporation shall give effect to a report of the Prices Commission under this section.

Review of prescribed price-fixing provisions.

60. (1) The Minister may, from time to time, at the request of the Conference or if the Minister considers that it is desirable to do so, establish a committee to review the prescribed price-fixing provisions.

(2) Schedule 3 has effect with respect to the constitution and procedure of a review committee.

(3) A review committee shall, within such time as the Minister may direct, inquire into, and report to the Minister on, the operation of the prescribed price-fixing provisions.

(4) A review committee shall exercise its functions with a view to—

- (a) facilitating the orderly development of the dairy industry;
- (b) preventing undue increases in prices; and

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- (c) ensuring that persons engaged in the dairy industry and consumers enjoy an equitable share of any increase in productivity in that industry.

Offences.

60A. (1) Any person who—

(a) sells—

- (i) milk by retail at a price exceeding the maximum price fixed by an order in force under section 58 in respect of that milk;
- (ii) milk by wholesale at a price other than the price so fixed 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 so fixed as the price above or below which that milk may not be sold by retail,

with knowledge, where the price so fixed 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 fixed in respect thereof,

is guilty of an offence against this Act.

(2) Any person—

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

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

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

at a price less than the wholesale price fixed by an order in force under section 58 in respect of that declared dairy product is guilty of an offence against this Act.

Effect of price fixing on contracts.

60B. (1) If, after any agreement is made for the sale and purchase of milk, the Corporation in the exercise of its powers under this Part fixes 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 use by humans, as milk, that agreement shall, as on and from the date the order fixing the price 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 fixed, the price so fixed shall be substituted for the agreed price in the agreement where the agreed price is less than the minimum price fixed 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 fixed 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;

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

- (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 or she 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 fixed in relation to milk of the grade, quality or description sold (whether or not grade, quality or description is specified in the agreement).

(2) An order in force under section 58 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 supplied, under an agreement made before the order takes effect.

Dairy Industry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES
—*continued.*

Prices not to be fixed under other Acts, etc.

60c. (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.

(2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Part, 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 Part, cease to have effect.

(7) Section 103 (1) (o)—

Omit “or the Pricing Committee”.

(8) Schedule 3—

Omit the Schedule, insert instead:—

SCHEDULE 3.

(Sec. 60.)

CONSTITUTION AND PROCEDURE OF A REVIEW COMMITTEE.

Constitution.

1. (1) A review committee shall consist of—

(a) a person appointed by the Minister who shall be the chairman of the committee;

Dairy Industry (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE FIXING OF PRICES**
—continued.

- (b) a person (not being a member of the Conference) appointed by the Minister to represent consumers of milk and dairy products; and
- (c) 2 persons appointed by the Minister on the nomination of the Conference.

(2) A person appointed by the Minister for the purpose may, during the illness or absence of a member of a review committee, act in the office of the member.

Procedure at meetings of review committee.

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

(2) The Minister shall call the first meeting of a review committee in such manner as the Minister thinks fit.

(3) The chairman of a review committee shall preside at any meeting of the committee.

(4) Three members of a review committee (including the chairman) shall form the quorum for its meetings.

(5) The chairman of a review committee at any meeting of the 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 a review committee at which a quorum is present shall be the decision of the committee.

Dairy Industry (Amendment).

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. (1) In this Schedule—

“first appointed day” means the day appointed and notified under section 2 (2);

“former Authority” means the Dairy Industry Marketing Authority constituted under section 7 (1) of the Principal Act, as in force immediately before the first appointed day;

“former full-time member” means a person who was, immediately before the first appointed day, a full-time member of the former Authority within the meaning of the Principal Act, as in force immediately before that day;

“second appointed day” means the day appointed and notified under section 2 (3).

(2) Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the meanings ascribed to those expressions in the Principal Act.

Members of former Authority holding office immediately before the first appointed day.

2. (1) A person who, immediately before the first appointed day, held office as a member of the former Authority shall cease to hold office as such on that day.

(2) A person who ceases to hold office as a member of the former Authority by reason of the operation of this Act is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office, but nothing in this subclause prevents the payment to that person out of the funds of the Corporation of such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) A person who, immediately before the first appointed day, held office as a full-time member of the former Authority and who ceases to hold that office by reason of the operation of this Act, is, if the person is not appointed as General Manager or a Deputy General Manager with effect on and from that day, entitled to be appointed to some position in the service of the Government, but is not entitled, by virtue of this subclause, to hold that position—

(a) after the day on which the term of office for which the person had been appointed to the former Authority expires; or

(b) after being appointed as General Manager or a Deputy General Manager,

whichever first occurs.

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(4) A person referred to in subclause (3) is, until—

- (a) the day on which the term of office for which the person had been appointed to the former Authority expires; or
- (b) the day on which the person ceases to hold the position to which the person is appointed pursuant to subclause (3),

whichever first occurs, entitled to be paid such salary as the Statutory and Other Offices Remuneration Tribunal may from time to time determine in relation to the person, not lower than the salary payable to the person immediately before the first appointed day.

(5) Pending the making of the relevant determination under subclause (4) salary shall continue to be paid to a person referred to in subclause (3) at the rate at which it was payable to the person immediately before the first appointed day.

(6) A reference in this clause to a position in the service of the Government includes a reference to an office or position as a member, officer or employee of a body constituted by an Act.

(7) A full-time member of the former Authority who was, immediately before the first appointed day, a contributor within the meaning of the Superannuation Act, 1916—

- (a) shall retain any rights that had accrued or were accruing to that member under that Act; and
- (b) shall, while that member holds a position to which that member was appointed pursuant to subclause (3) or is an officer of the Corporation, continue to be a contributor within the meaning of that Act.

Continuity of Corporation.

3. The Corporation is a continuation of, and the same legal entity as, the former Authority.

References to certain former offices, etc.

4. (1) On and from the first appointed day, in any Act, in any instrument made under any Act or in any other instrument of any kind (whether enacted, made or executed before or after the first appointed day) a reference, or a reference required immediately before that day to be read and construed as a reference—

- (a) to the former Authority shall be read and construed as a reference to the Corporation;

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) to the Chairman of the former Authority shall be read and construed as a reference to the General Manager;
- (c) to the Deputy Chairman of the former Authority shall be read and construed as a reference to a Deputy General Manager; or
- (d) to the Dairy Industry Marketing Authority Act, 1979, shall be read and construed as a reference to the Dairy Industry Act, 1979.

(2) Subclause (1) does not apply to any determination under the Statutory and Other Offices Remuneration Act, 1975.

First meeting of Conference, etc.

5. (1) The Minister shall call the first meeting of the Conference on or after the first appointed day in such manner as the Minister thinks fit, and may appoint a member of the Conference to preside at that meeting.

(2) Until regulations are made under section 6D of the Principal Act, as amended by this Act, the procedure for the calling of meetings of the Conference and the executive committee of the Conference, and for the conduct of business at those meetings (including the appointment of a person to preside at those meetings) shall, subject to the Principal Act and this Act, be as determined by the Conference or that committee, as the case may be.

Delegation.

6. A delegation under section 18 of the Principal Act and in force immediately before the first appointed day shall, if the delegate is, on that day, an officer of the Corporation or an officer or a temporary employee of the Department, be deemed to be a delegation under section 18 of the Principal Act, as amended by this Act.

Authorised agents.

7. An appointment of an authorised agent under section 19 of the Principal Act and in force immediately before the first appointed day shall be deemed to be an appointment under section 19 of the Principal Act, as amended by this Act.

Dairy Industry (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Existing orders fixing prices.**

8. An order in force under section 55 (9) of the Principal Act immediately before the second appointed day shall, on that day, be deemed to be an order in force under section 58 of the Principal Act, as amended by this Act.

Regulations.

9. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the first appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).

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

L. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 31st December, 1983.