

DAIRY INDUSTRY (AMENDMENT) ACT 1989 No. 212

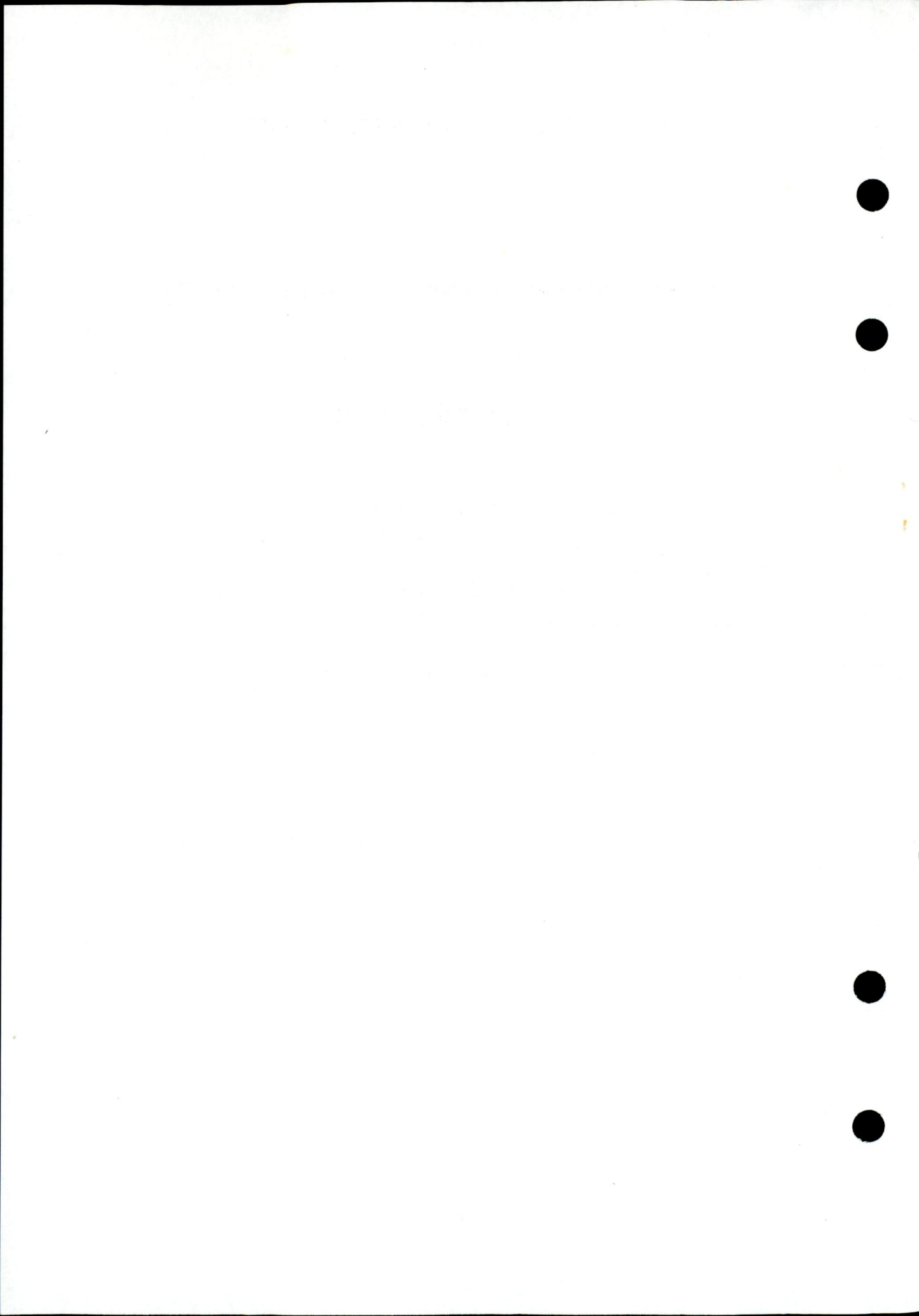
NEW SOUTH WALES



TABLE OF PROVISIONS

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2. Commencement
3. Amendment of Dairy Industry Act 1979 No. 208

SCHEDULE 1 - AMENDMENTS



DAIRY INDUSTRY (AMENDMENT) ACT 1989 No. 212

NEW SOUTH WALES



Act No. 212, 1989

An Act to amend the Dairy Industry Act 1979 to make further provision with respect to retail sales of milk from shops. [Assented to 21 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Dairy Industry (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Dairy Industry Act 1979 No. 208

3. The Dairy Industry Act 1979 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 3 (**Arrangement**):

Omit the section.

(2) Section 4 (**Definitions**):

(a) In the definition of "dairy produce merchant" in section 4 (1), omit paragraph (c), insert instead:

(c) who sells milk to another person,
and includes a dairy produce merchant (shop);

(b) After the definition of "dairy produce merchant" in section 4 (1), insert:

"**dairy produce merchant (shop)**" means a person who
sells milk by retail sale from premises;

(c) In the definition of "milk store" in section 4 (1), after "supplied", insert "(including premises at which milk is sold by retail sale)".

SCHEDULE 1 - AMENDMENTS - *continued*

(3) Section 11 (**Directions to take remedial measures**):

- (a) In section 11 (1) (d) after "there", insert "or that a dairy produce merchant (shop) carries on there".
- (b) In section 11 (1), omit "or dairy produce merchant, as the case may be", insert instead "or dairy produce merchant, or dairy produce merchant (shop), as the case may be".

(4) Section 20 (**Powers of certain authorised officers**):

In section 20 (2) (e), omit "registered".

(5) Section 32A:

After section 32, insert:

Deregulation of retail milk shops

32A. From the commencement of this section, a person who sells milk by retail sale from premises is not required to be the holder of a certificate of registration as a dairy produce merchant authorising the person to do so.

(6) Part 4, Division 2:

After Division 1 of Part 4, insert:

Division 2 - Dairy produce merchants (shop)

Directions to dairy produce merchants (shop)

36. (1) The Corporation may, by notice in writing served on a person who is a dairy produce merchant (shop), give any one or more of the following directions to the person:

- (a) a direction that the person is not to sell milk otherwise than at premises specified in the direction;
- (b) a direction that the person is not to sell milk unless the milk was obtained from:
 - (i) a specified person or place; or
 - (ii) a person or place of a specified class; or
 - (iii) any person or place other than a specified person or place; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (iv) any person or place other than a person or place of a specified class;
 - (c) a direction that the person is not to sell milk unless the milk is packaged in a specified manner, quantity or type of container;
 - (d) a direction that the person is not to sell milk unless the milk has been stored under specified conditions.
- (2) The Corporation may, by notice in writing served on a person, revoke or vary a direction given to the person under this section.
- (3) A person who contravenes a direction under this section is guilty of an offence against this Act.

Directions prohibiting sale of milk by retail shop

37. (1) The Corporation may, by notice in writing served on a person, direct that the person must not sell milk by retail from premises, but such a direction can only be given if:

- (a) the person has been convicted of 2 or more offences against any laws of any State or Territory of the Commonwealth, or of the Commonwealth, in relation to the production, treatment, storage, distribution, supply or sale of milk, dairy products or margarine; or
- (b) in the opinion of the Corporation, the person is not a fit and proper person to sell milk; or
- (c) in the opinion of the Corporation, any premises or equipment occupied or used by the person as a dairy produce merchant (shop) are or is unsuitable; or
- (d) in the opinion of the Corporation, it is necessary or desirable to do so in the public interest or to enable the Corporation to effectively carry out or give effect to any of the provisions of this Act; or
- (e) the person has failed to comply with a direction under section 36.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) A direction under this section may (but need not) be limited as to the time for which it applies and may be revoked by notice in writing served on the person concerned.

(3) Before giving such a direction to a person on grounds specified in subsection (1) (a) or (b), the Corporation is to give the person the prescribed notice in writing of the grounds for the proposed direction and the person may in the prescribed manner and within the prescribed time appeal against the proposed direction.

(4) Such an appeal is to be to a Local Court constituted by a Magistrate and the Court is, for the purposes of the appeal, not bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

(5) The decision of the Court on the appeal is final and is to be given effect to by the Corporation.

(6) A person who contravenes a direction under this section is guilty of an offence against this Act.

(7) Schedule 5 (**Savings and transitional provisions**):

(a) Before clause 1, insert:

Part 1 - General

(b) In clause 1 (1), omit "this Schedule", insert instead "this Part".

(c) After clause 16, insert:

Part 2 - Amending Acts

Dairy Industry (Amendment) Act 1989

Directions to dairy produce merchants (shop)

17. A person who, immediately before the commencement of this clause, held a certificate of registration that authorised the person to sell milk by retail from premises is, on that commencement, to be considered to have been given a direction under section 36 that is to

SCHEDULE 1 - AMENDMENTS - *continued*

the same effect as any conditions to which the certificate was subject.

[*Minister's second reading speech made in -
Legislative Assembly on 22 November 1989
Legislative Council on 29 November 1989*]

FIRST PRINT

DAIRY INDUSTRY (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Dairy Industry Act 1979 as follows:

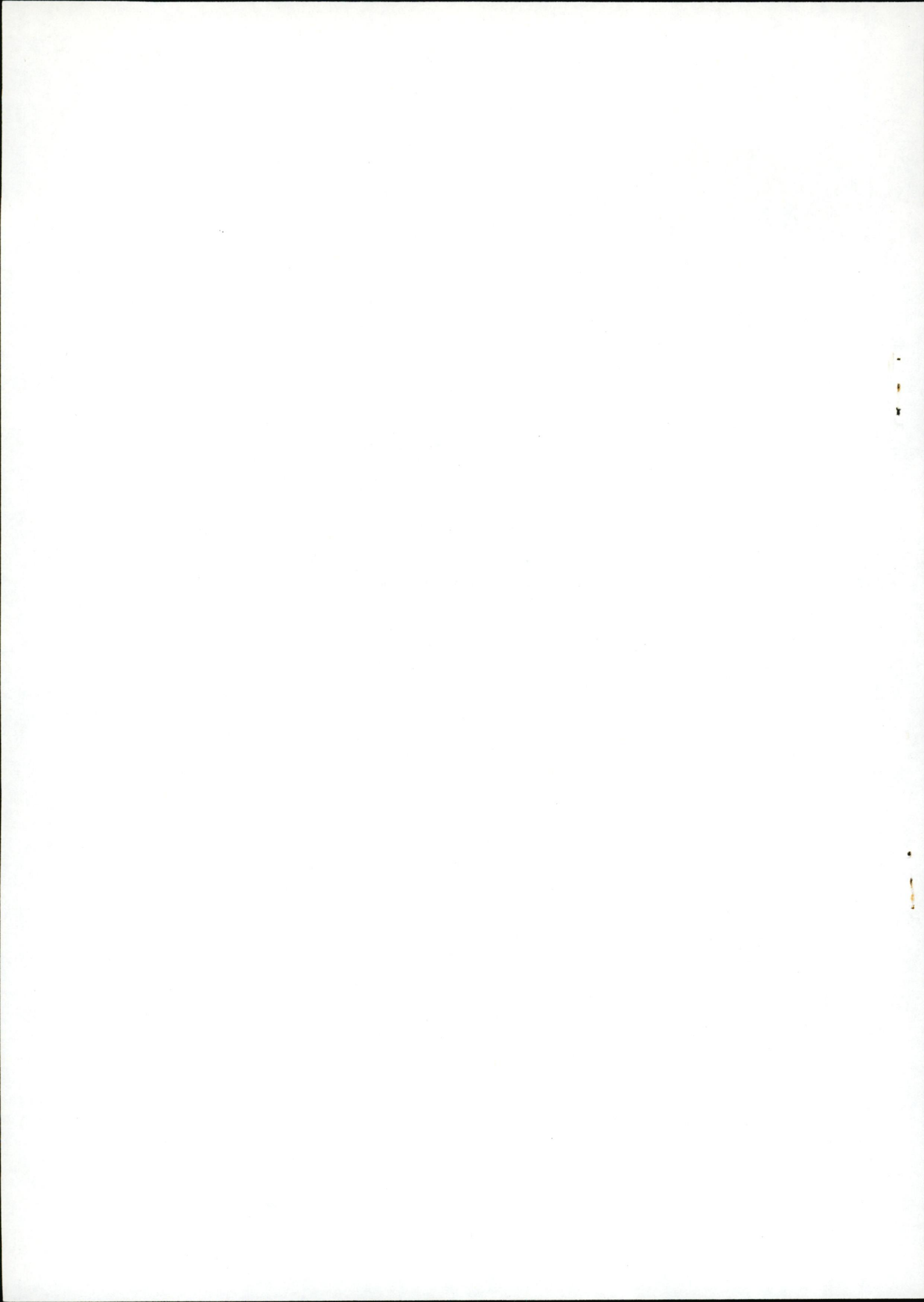
- * to remove the requirement for registration under that Act of a person who sells milk by retail sale from premises (known as a dairy produce merchant (shop));
- * to replace the current provisions for imposing conditions on the certificate of registration of a dairy produce merchant (shop) with provisions enabling the New South Wales Dairy Corporation ("the Corporation") to give directions to a dairy produce merchant (shop) covering the same matters as may currently be the subject of conditions;
- * to replace the current provisions enabling the Corporation to refuse to issue, or to cancel, a certificate of registration of a dairy produce merchant (shop) in specified circumstances with a power for the Corporation to prohibit the sale of milk by a dairy produce merchant (shop) in those circumstances;
- * to make other minor or consequential amendments and to enact a transitional provision.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 is a formal provision that gives effect to Schedule 1.

Schedule 1 makes the amendments referred to above.



FIRST PRINT

DAIRY INDUSTRY (AMENDMENT) BILL 1989

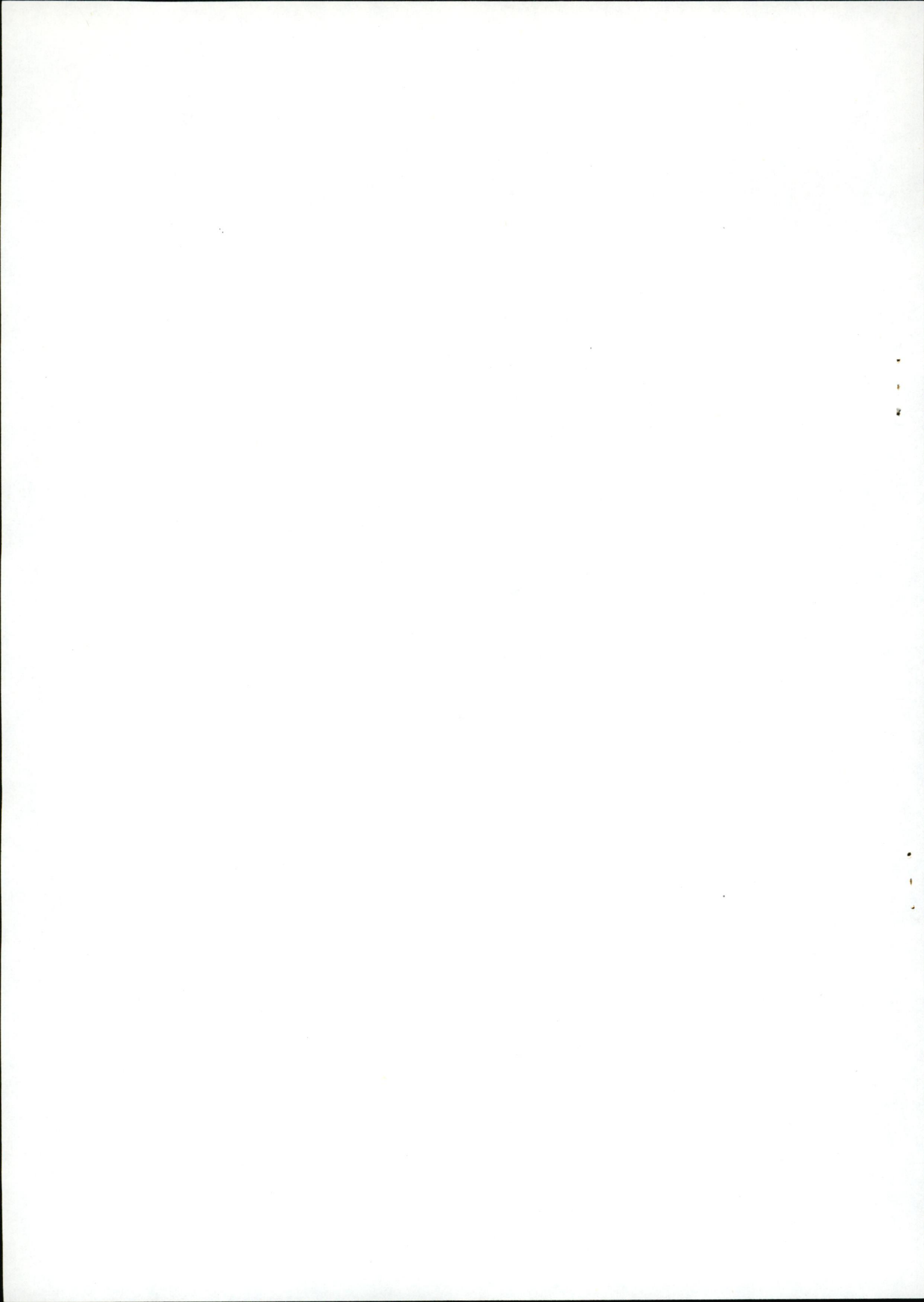
NEW SOUTH WALES



TABLE OF PROVISIONS

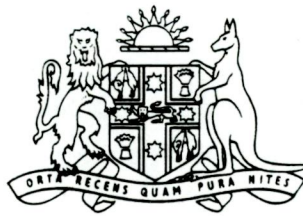
1. Short title
2. Commencement
3. Amendment of Dairy Industry Act 1979 No. 208

SCHEDULE 1 - AMENDMENTS



DAIRY INDUSTRY (AMENDMENT) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Dairy Industry Act 1979 to make further provision with respect to retail sales of milk from shops.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Dairy Industry (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Dairy Industry Act 1979 No. 208

3. The Dairy Industry Act 1979 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) **Section 3 (Arrangement):**

Omit the section.

(2) **Section 4 (Definitions):**

(a) In the definition of "dairy produce merchant" in section 4 (1), omit paragraph (c), insert instead:

(c) who sells milk to another person,

and includes a dairy produce merchant (shop);

(b) After the definition of "dairy produce merchant" in section 4 (1), insert:

"dairy produce merchant (shop)" means a person who sells milk by retail sale from premises;

(c) In the definition of "milk store" in section 4 (1), after "supplied", insert "(including premises at which milk is sold by retail sale)".

SCHEDULE 1 - AMENDMENTS - *continued*

- (3) Section 11 (**Directions to take remedial measures**):
- (a) In section 11 (1) (d) after "there", insert "or that a dairy produce merchant (shop) carries on there".
 - (b) In section 11 (1), omit "or dairy produce merchant, as the case may be", insert instead "or dairy produce merchant, or dairy produce merchant (shop), as the case may be".
- (4) Section 20 (**Powers of certain authorised officers**):
- In section 20 (2) (e), omit "registered".
- (5) Section 32A:
- After section 32, insert:
- Deregulation of retail milk shops**
- 32A. From the commencement of this section, a person who sells milk by retail sale from premises is not required to be the holder of a certificate of registration as a dairy produce merchant authorising the person to do so.
- (6) Part 4, Division 2:
- After Division 1 of Part 4, insert:
- Division 2 - Dairy produce merchants (shop)**
- Directions to dairy produce merchants (shop)**
36. (1) The Corporation may, by notice in writing served on a person who is a dairy produce merchant (shop), give any one or more of the following directions to the person:
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 - (b) a direction that the person is not to sell milk unless the milk was obtained from:
 - (i) a specified person or place; or
 - (ii) a person or place of a specified class; or
 - (iii) any person or place other than a specified person or place; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (iv) any person or place other than a person or place of a specified class;
 - (c) a direction that the person is not to sell milk unless the milk is packaged in a specified manner, quantity or type of container;
 - (d) a direction that the person is not to sell milk unless the milk has been stored under specified conditions.
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- (b) in the opinion of the Corporation, the person is not a fit and proper person to sell milk; or
- (c) in the opinion of the Corporation, any premises or equipment occupied or used by the person as a dairy produce merchant (shop) are or is unsuitable; or
- (d) in the opinion of the Corporation, it is necessary or desirable to do so in the public interest or to enable the Corporation to effectively carry out or give effect to any of the provisions of this Act; or
- (e) the person has failed to comply with a direction under section 36.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) A direction under this section may (but need not) be limited as to the time for which it applies and may be revoked by notice in writing served on the person concerned.

(3) Before giving such a direction to a person on grounds specified in subsection (1) (a) or (b), the Corporation is to give the person the prescribed notice in writing of the grounds for the proposed direction and the person may in the prescribed manner and within the prescribed time appeal against the proposed direction.

(4) Such an appeal is to be to a Local Court constituted by a Magistrate and the Court is, for the purposes of the appeal, not bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

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(7) Schedule 5 (**Savings and transitional provisions**):

(a) Before clause 1, insert:

Part 1 - General

(b) In clause 1 (1), omit "this Schedule", insert instead "this Part".

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Part 2 - Amending Acts

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SCHEDULE 1 - AMENDMENTS - *continued*

the same effect as any conditions to which the certificate was subject.
