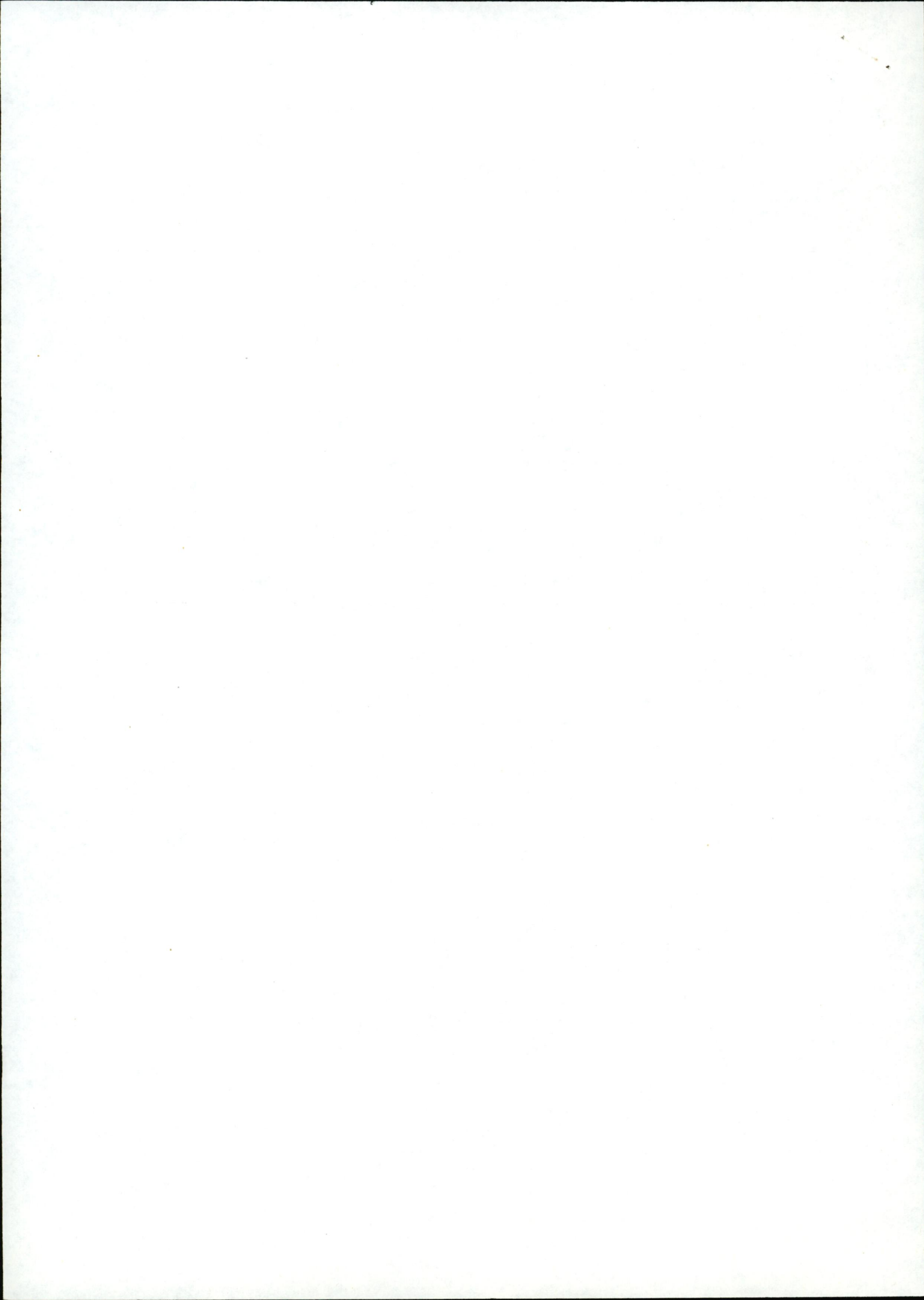


DAIRY INDUSTRY (CORPORATIONS) AMENDMENT BILL 1992



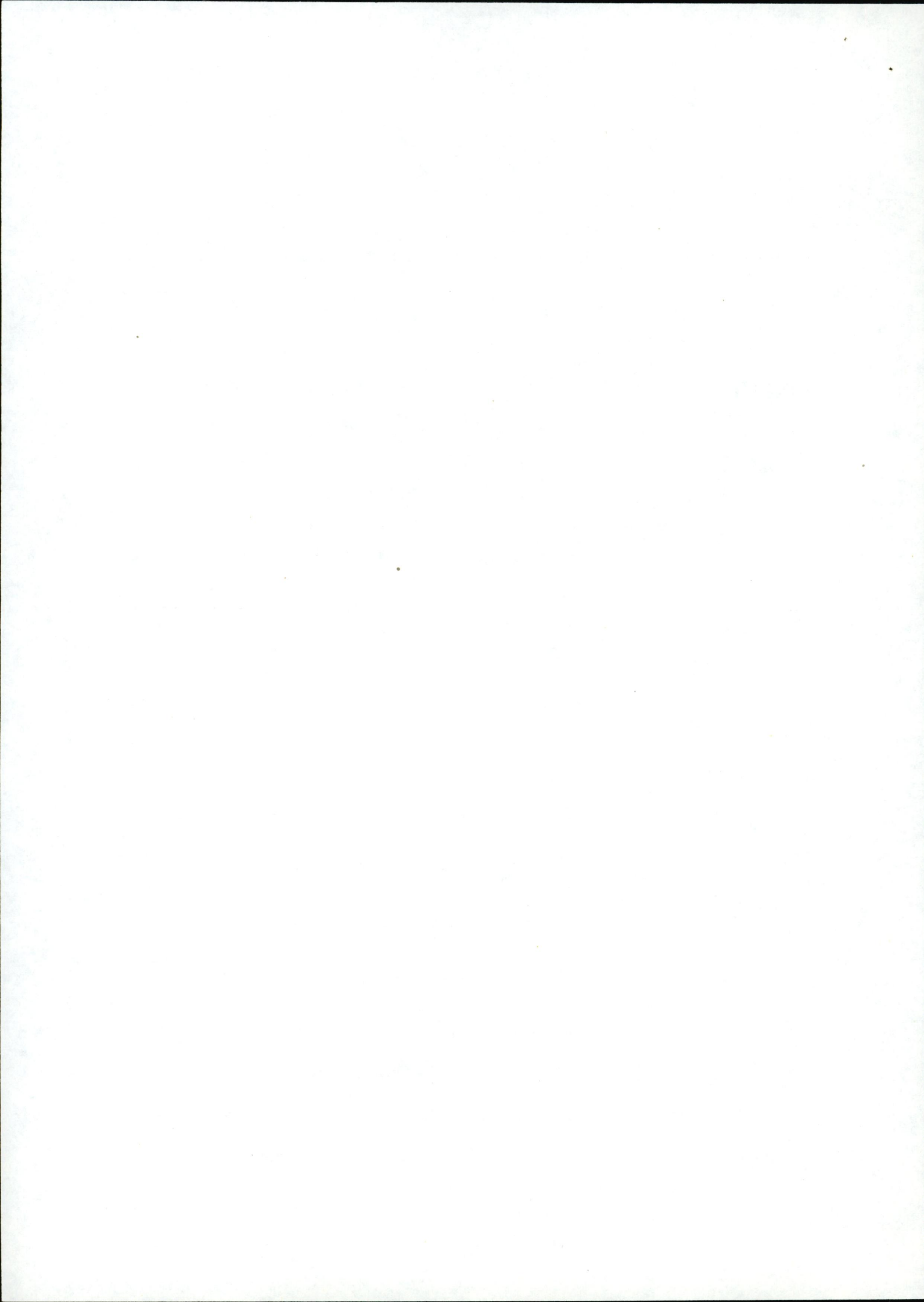
I MOVE THAT THIS BILL BE READ A SECOND TIME.

IN JUNE 1989 MILK MARKETING (NSW) PTY. LIMITED WAS INCORPORATED UNDER THE COMPANIES (NEW SOUTH WALES) CODE. AS A FIRST STAGE THE SHAREHOLDERS IN THE COMPANY ARE THE MINISTER FOR AGRICULTURE AND RURAL AFFAIRS AND HIS PRINCIPAL POLICY ADVISOR. THE SECOND STAGE IS TO VEST THE CONTROL OF THE COMPANY IN THE INDUSTRY ITSELF.

THE COMPANY, WHEN FORMED, TOOK OVER THE FUNCTIONS OF THE FORMER DAIRY PROMOTION COUNCIL WHICH WAS AN ADVISORY BODY ON PROMOTIONAL ACTIVITIES TO THE NEW SOUTH WALES DAIRY CORPORATION.

MILK MARKETING (NSW) PTY. LIMITED HAS PERFORMED PROMOTIONAL ACTIVITIES WHICH WOULD NORMALLY HAVE BEEN PERFORMED BY THE CORPORATION AND THE CORPORATION HAS PROVIDED THE COMPANY WITH THOSE FUNDS OF THE CORPORATION DESIGNATED FOR PROMOTIONAL ACTIVITIES.

FURTHER, THE GENERAL MANAGER OF THE CORPORATION HAS ACTED AS A DIRECTOR OF THE COMPANY SINCE ITS FORMATION. THE CORPORATION DESIRES TO ASSIGN TO THE COMPANY THOSE OF ITS ASSETS WHICH WERE PREVIOUSLY AVAILABLE TO THE DAIRY PROMOTION COUNCIL.



SOME DOUBTS HAVE BEEN EXPRESSED AS TO WHETHER THE CORPORATION WAS EMPOWERED TO ACT AS IT HAS IN RELATION TO THE COMPANY. THE PURPOSE OF THIS BILL IS TO PUT TO REST ANY SUCH DOUBTS AND TO FACILITATE THE MOVE TO THE SECOND STAGE.

THE BILL WILL ALSO PERMIT THE MOVEMENT TO THE INDUSTRY OF SOME OF THE CORPORATION'S FUNCTIONS IN RELATION TO THE CONDUCT OF THE CORPORATION'S LABORATORY ACTIVITIES SHOULD THIS, AT SOME TIME IN THE FUTURE, BE CONSIDERED DESIRABLE.

CLAUSE 1 OF THE BILL CONTAINS THE SHORT TITLE AND CLAUSE 2 PROVIDES THAT THE PROPOSED ACT IS TO COMMENCE ON A DAY OR DAYS TO BE PROCLAIMED. CLAUSE 3 PROVIDES THAT THE AMENDMENTS ARE CONTAINED IN SCHEDULE 1.

SCHEDULE 1, ITEM 1 INSERTS FOUR NEW SECTIONS IN THE ACT.

PROPOSED NEW SECTION 91A INSERTS DEFINITIONS OF "PRIVATE CORPORATION" AND "PRIVATE SUBSIDIARY CORPORATION".

PROPOSED NEW SECTION 91B PROVIDES THAT THE CORPORATION AND THE NEW SOUTH WALES DAIRY INDUSTRY CONFERENCE MAY FORM OR PARTICIPATE IN THE FORMATION OF PRIVATE CORPORATIONS AND MAY, WITH THE MINISTER'S APPROVAL, FORM OR PARTICIPATE IN THE FORMATION OF PRIVATE SUBSIDIARY CORPORATIONS. THE SECTION



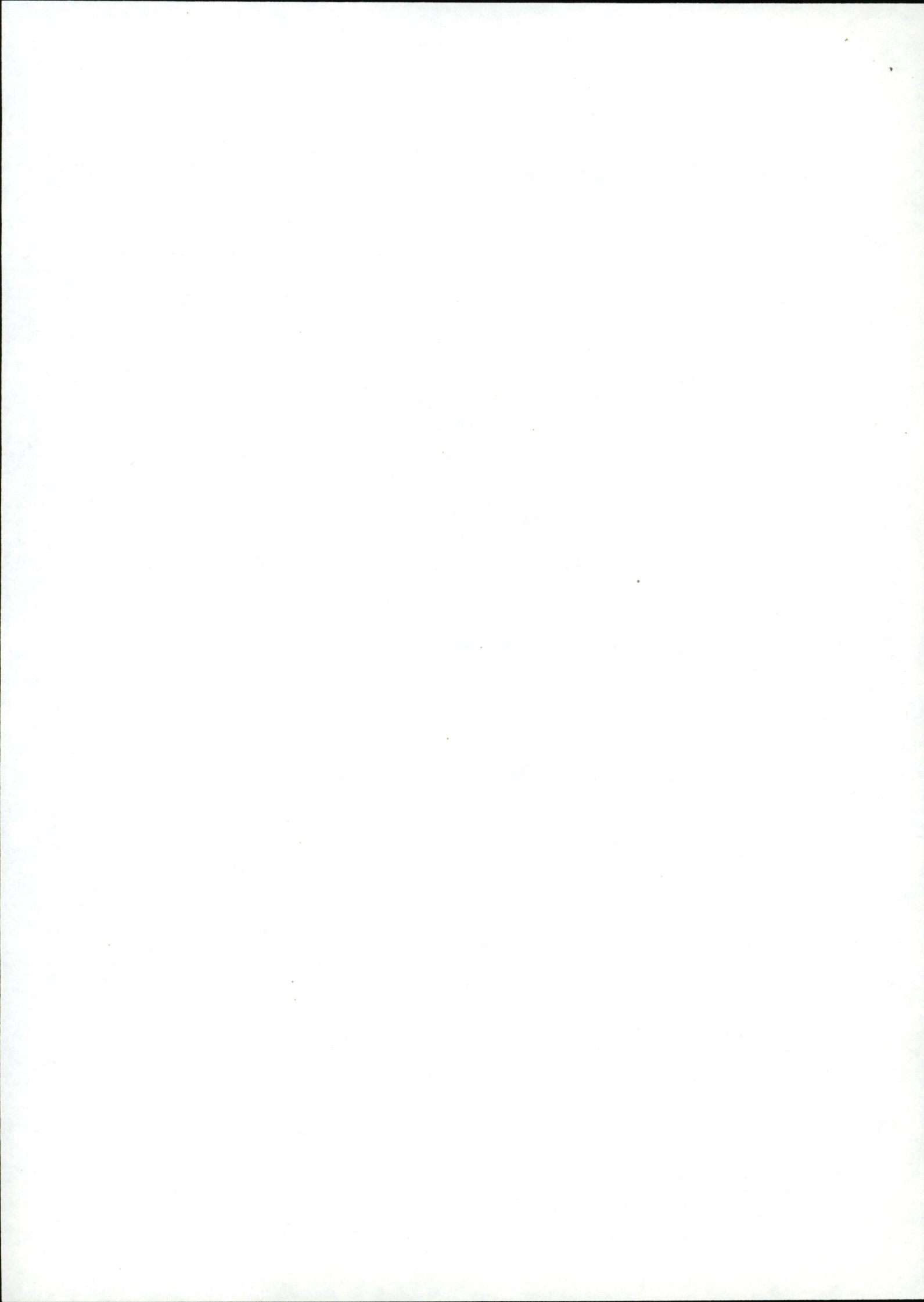
FURTHER PROVIDES THAT A PRIVATE SUBSIDIARY CORPORATION IS NOT, AND DOES NOT REPRESENT, THE CROWN.

PROPOSED NEW SECTION 91C WILL ENABLE THE DAIRY CORPORATION TO MEET THE COSTS ASSOCIATED WITH THE FORMATION OF A PRIVATE CORPORATION, AND, WITH THE MINISTER'S APPROVAL, MAKE GRANTS OF MONEY TO A PRIVATE SUBSIDIARY CORPORATION.

FURTHER, IT WILL ENABLE THE DAIRY CORPORATION TO TRANSFER ASSETS TO PRIVATE SUBSIDIARY CORPORATIONS AND PROVIDE INFORMATION WHICH WOULD OTHERWISE BE CONFIDENTIAL TO THE DAIRY CORPORATION TO SUCH CORPORATIONS. A CORPORATION, A DIRECTOR OR AN EMPLOYEE ARE ALL REQUIRED TO KEEP ANY SUCH INFORMATION CONFIDENTIAL.

PROPOSED NEW SECTION 91D WILL PERMIT THE DAIRY CORPORATION TO DELEGATE ITS FUNCTIONS UNDER SECTION 18 OF THE ACT TO A PRIVATE SUBSIDIARY CORPORATION.

ITEM 2 INSERTS A NEW CLAUSE IN SCHEDULE 2 OF THE ACT WHICH WILL ENABLE THE GENERAL MANAGER TO BE A DIRECTOR OF MILK MARKETING (NSW) PTY. LIMITED AND ANY OTHER CORPORATION FORMED BY THE DAIRY CORPORATION WITHOUT BEING DISQUALIFIED FROM HOLDING OFFICE AS GENERAL MANAGER.





ITEM 3 INSERTS TWO NEW CLAUSES IN SCHEDULE 5 OF THE ACT. BY THESE CLAUSES, MILK MARKETING (NSW) PTY. LIMITED IS TAKEN TO HAVE BEEN FORMED IN ACCORDANCE WITH THE AMENDMENTS MADE BY THIS BILL AND THE DAIRY CORPORATION AND ITS GENERAL MANAGER ARE TAKEN TO HAVE ALWAYS BEEN AUTHORISED TO EXERCISE THE FUNCTIONS CONFERRED BY THE AMENDMENTS BEING MADE BY THE BILL.

I COMMEND THE BILL.



FIRST PRINT

**DAIRY INDUSTRY (CORPORATIONS) AMENDMENT  
BILL 1992**

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:

- (a) to enable the Dairy Corporation and the Dairy Industry Conference to form, or acquire interests in, corporations under the Corporations Law and to assist them financially and in other ways; and
- (b) to validate certain matters concerning Milk Marketing (NSW) Pty. Limited.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 amends the Dairy Industry Act 1979 as set out in Schedule 1.

**SCHEDULE 1—AMENDMENTS**

Schedule 1 (1) inserts new provisions into the Act dealing with the formation of, or the acquisition of interests in, corporations under the Corporations Law.

Under the new provisions, the Dairy Corporation and the Dairy Industry Conference are authorised to form, or acquire interests in, private corporations. Controlling interests in those corporations are not to be acquired or disposed of without the approval of the Minister.

The new provisions deal with the payment by the Dairy Corporation of the expenses of the formation etc. of private corporations, the granting of money to private subsidiary corporations by the Dairy Corporation and the transfer to those corporations of assets of the Dairy Corporation.

Schedule 1 (2) provides for the General Manager of the Dairy Corporation not to be disqualified from holding office as General Manager because he or she is a director of a corporation formed under the new provisions.

*Dairy Industry (Corporations) Amendment 1992*

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Schedule 1 (3) validates any action taken by the Minister, the Dairy Corporation, its General Manager and others before the commencement of the proposed Act relating to the formation and activities of Milk Marketing (NSW) Pty. Limited if the action would have been lawful if the proposed Act had been in force when the action was taken.

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FIRST PRINT

**DAIRY INDUSTRY (CORPORATIONS) AMENDMENT  
BILL 1992**

NEW SOUTH WALES

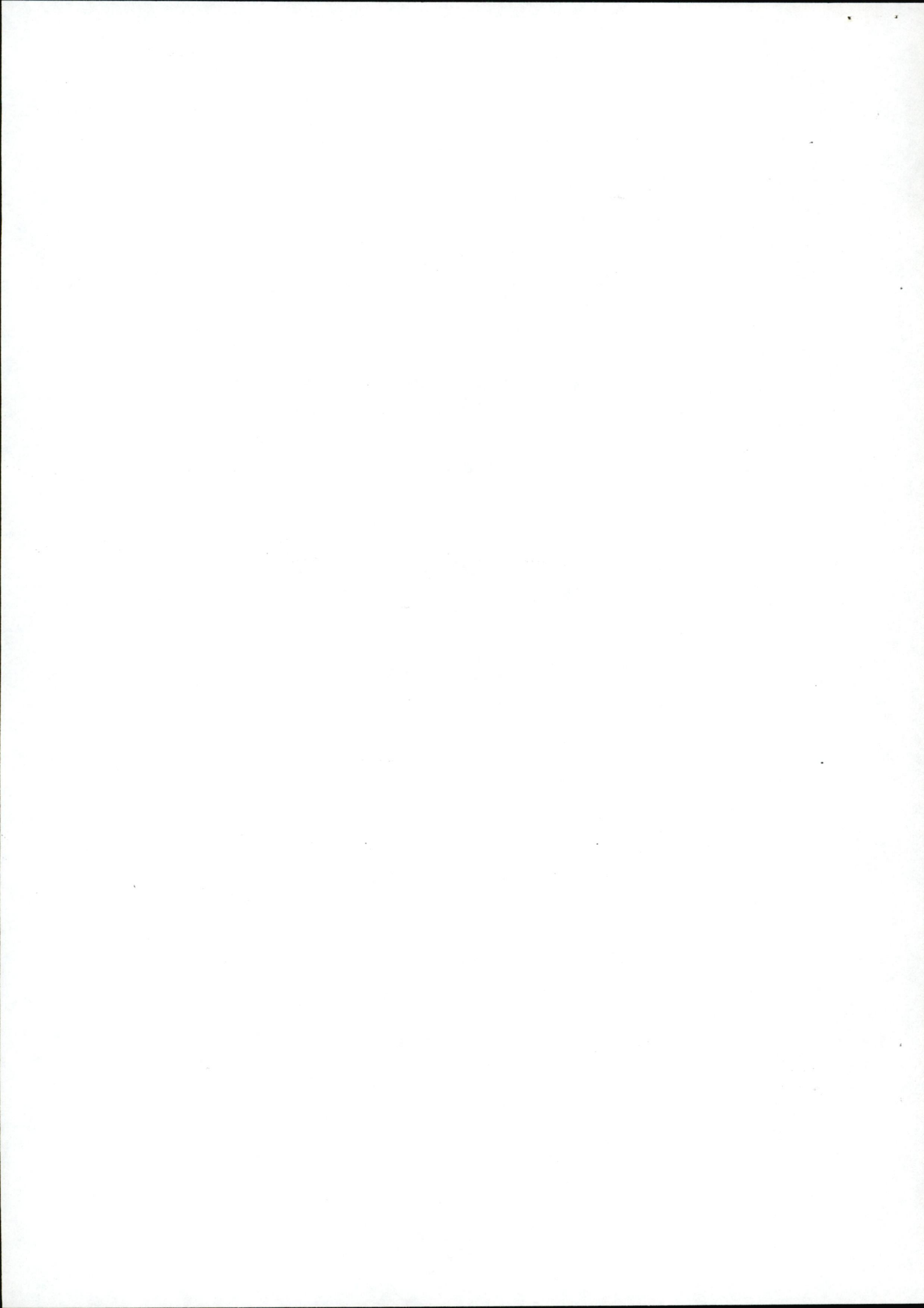


**TABLE OF PROVISIONS**

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

**SCHEDULE 1—AMENDMENTS**

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**DAIRY INDUSTRY (CORPORATIONS) AMENDMENT  
BILL 1992**

NEW SOUTH WALES



No. , 1992

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**A BILL FOR**

An Act to amend the Dairy Industry Act 1979 with respect to the participation of the New South Wales Dairy Corporation in corporations under the Corporations Law; to validate certain matters; and for other purposes.

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*Dairy Industry (Corporations) Amendment 1992*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Dairy Industry (Corporations) Amendment Act 1992.

**5 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.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Part 8, Division 2A:

Before Division 3 of Part 8, insert:

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**Division 2A—Participation of Corporation etc. in corporations**

**Definitions**

91A. In this Division:

20

“private corporation” means a corporation within the meaning of the Corporations Law;

“private subsidiary corporation” means a private corporation in which either the Corporation or Conference has a controlling interest.

**Private corporations etc.**

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91B. (1) The Corporation may, subject to subsection (2):

(a) form, or participate in the formation of, private corporations; and

(b) acquire interests in private corporations; and

(c) sell or otherwise dispose of interests in private corporations,

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whether or not the activities or proposed activities of any such private corporation are related to the dairy industry.



*Dairy Industry (Corporations) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

(2) The Corporation must not, without the approval of the Minister:

- (a) form, or participate in the formation of, a private subsidiary corporation; or 5
- (b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation; or
- (c) sell or otherwise dispose of any interest in a private subsidiary corporation so that, as a result of the sale or disposal, it ceases to be a private subsidiary corporation. 10

(3) The Conference also has the functions conferred on the Corporation by this section. Those functions may be exercised jointly with the Corporation. 15

(4) A private subsidiary corporation is not, and does not represent, the Crown.

**Funding of private subsidiary corporations**

91C. (1) The Corporation may, out of its funds:

- (a) pay for the formation of a private corporation, or for other costs incurred, under section 91B; and 20
- (b) with the approval of the Minister, make grants of money to a private subsidiary corporation for use in the exercise of its functions.

(2) The Corporation may, with the approval of the Minister, transfer any of its assets to a private subsidiary corporation. 25

(3) The Corporation may provide a private subsidiary corporation with information in relation to milk and dairy products given confidentially to the Corporation. 30

(4) A private subsidiary corporation provided with information under this section, and the directors and employees of the corporation, are each subject to the same requirements as the Corporation in relation to confidentiality of the information. 35

*Dairy Industry (Corporations) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

(5) A private subsidiary corporation which, or a director or employee who, is guilty of a breach of the confidentiality imposed by this section is guilty of an offence against this Act.

**Delegation to private subsidiary corporation**

91D. The persons to whom the Corporation may delegate its functions under section 18 include private subsidiary corporations.

(2) Schedule 2, clause 1 (**Disqualifications**):

After clause 1 (2), insert:

(3) Subclause (2):

(a) does not apply, and is taken never to have applied, in relation to Milk Marketing (NSW) Pty. Limited; and

(b) does not apply in relation to any private subsidiary corporation or other private corporation in which the Corporation or Conference has an interest in accordance with Division 2A of Part 8.

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

After clause 17, insert:

*Dairy Industry (Corporations) Amendment Act 1992*

**Transitional provision**

18. Milk Marketing (NSW) Pty. Limited is, while its shares are held by the Minister, the Corporation or the Conference or by any other person on behalf of the State, taken to be a private subsidiary corporation formed in accordance with Division 2A of Part 8.

**Validation**

19. Anything done by the Minister, the Corporation, the General Manager or any other person that would have been validly done if the Dairy Industry (Corporations) Amendment Act 1992 had been in force when it was done is validated.

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**DAIRY INDUSTRY (CORPORATIONS) AMENDMENT  
ACT 1992 No. 58**

**NEW SOUTH WALES**

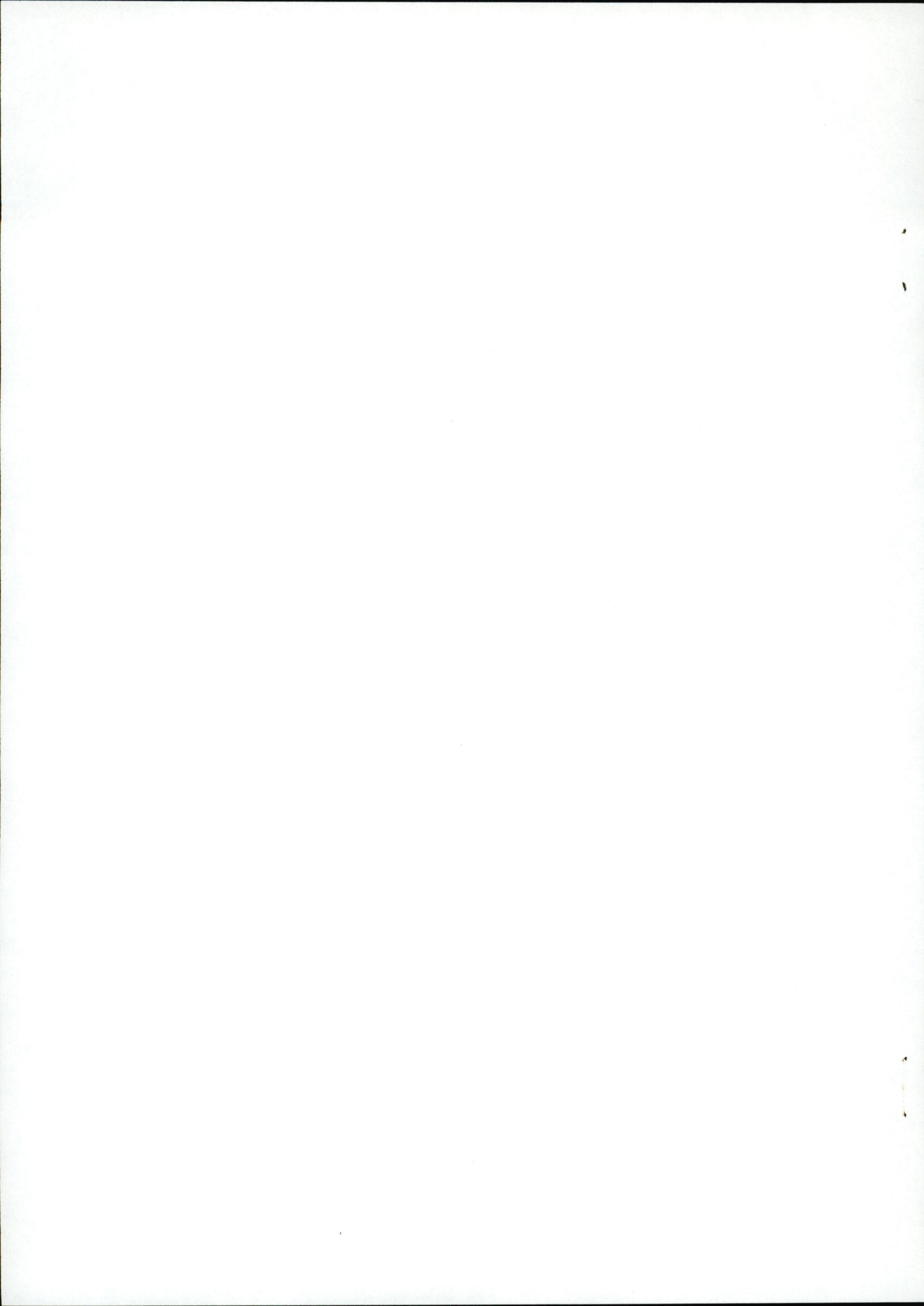


**TABLE OF PROVISIONS**

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

**SCHEDULE 1—AMENDMENTS**

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**DAIRY INDUSTRY (CORPORATIONS) AMENDMENT ACT  
1992 No. 58**

NEW SOUTH WALES



**Act No. 58, 1992**

An Act to amend the Dairy Industry Act 1979 with respect to the participation of the New South Wales Dairy Corporation in corporations under the Corporations Law; to validate certain matters; and for other purposes. [Assented to 20 October 1992]

*Dairy Industry (Corporations) Amendment Act 1992 No. 58*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Dairy Industry (Corporations) Amendment Act 1992.

**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.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Part 8, Division 2A:

Before Division 3 of Part 8, insert:

**Division 2A—Participation of Corporation etc. in corporations**

**Definitions**

91A. In this Division:

“**private corporation**” means a corporation within the meaning of the Corporations Law;

“**private subsidiary corporation**” means a private corporation in which either the Corporation or Conference has a controlling interest.

**Private corporations etc.**

91B. (1) The Corporation may, subject to subsection (2):

(a) form, or participate in the formation of, private corporations; and

(b) acquire interests in private corporations; and

(c) sell or otherwise dispose of interests in private corporations,

whether or not the activities or proposed activities of any such private corporation are related to the dairy industry.

*Dairy Industry (Corporations) Amendment Act 1992 No. 58*

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SCHEDULE 1—AMENDMENTS—*continued*

(2) The Corporation must not, without the approval of the Minister:

- (a) form, or participate in the formation of, a private subsidiary corporation; or
- (b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation; or
- (c) sell or otherwise dispose of any interest in a private subsidiary corporation so that, as a result of the sale or disposal, it ceases to be a private subsidiary corporation.

(3) The Conference also has the functions conferred on the Corporation by this section. Those functions may be exercised jointly with the Corporation.

(4) A private subsidiary corporation is not, and does not represent, the Crown.

**Funding of private subsidiary corporations**

91C. (1) The Corporation may, out of its funds:

- (a) pay for the formation of a private corporation, or for other costs incurred, under section 91B; and
- (b) with the approval of the Minister, make grants of money to a private subsidiary corporation for use in the exercise of its functions.

(2) The Corporation may, with the approval of the Minister, transfer any of its assets to a private subsidiary corporation.

(3) The Corporation may provide a private subsidiary corporation with information in relation to milk and dairy products given confidentially to the Corporation.

(4) A private subsidiary corporation provided with information under this section, and the directors and employees of the corporation, are each subject to the same requirements as the Corporation in relation to confidentiality of the information.

(5) A private subsidiary corporation which, or a director or employee who, is guilty of a breach of the confidentiality imposed by this section is guilty of an offence against this Act.

*Dairy Industry (Corporations) Amendment Act 1992 No. 58*

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SCHEDULE 1—AMENDMENTS—*continued*

**Delegation to private subsidiary corporation**

91D. The persons to whom the Corporation may delegate its functions under section 18 include private subsidiary corporations.

(2) Schedule 2, clause 1 (Disqualifications):

After clause 1 (2), insert:

(3) Subclause (2):

- (a) does not apply, and is taken never to have applied, in relation to Milk Marketing (NSW) Pty. Limited; and
- (b) does not apply in relation to any private subsidiary corporation or other private corporation in which the Corporation or Conference has an interest in accordance with Division 2A of Part 8.

(3) Schedule 5 (Savings and transitional provisions):

After clause 17, insert:

*Dairy Industry (Corporations) Amendment Act 1992*

**Transitional provision**

18. Milk Marketing (NSW) Pty. Limited is, while its shares are held by the Minister, the Corporation or the Conference or by any other person on behalf of the State, taken to be a private subsidiary corporation formed in accordance with Division 2A of Part 8.

**Validation**

19. Anything done by the Minister, the Corporation, the General Manager or any other person that would have been validly done if the Dairy Industry (Corporations) Amendment Act 1992 had been in force when it was done is validated.

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[Minister's second reading speech made in—  
Legislative Assembly on 7 May 1992  
Legislative Council on 13 October 1992]