

# GENERAL AGREEMENT ON

RESTRICTED

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## TARIFFS AND TRADE

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International Dairy Arrangements

Original: English

### INTERNATIONAL DAIRY PRODUCTS COUNCIL

#### Reply to Questionnaire 5 Regarding Information on Domestic Policies and Trade Measures

#### NEW ZEALAND

#### Introduction

New Zealand is heavily dependent on agricultural exports to finance imports for consumption and raw materials for industry. A quarter of the value of New Zealand's exports comes from the dairy industry (including dairy beef). As an earner of overseas exchange, dairying is therefore of considerable importance to the New Zealand economy.

The New Zealand dairy industry is organized entirely on a co-operative basis with producers having full control over both production and marketing of dairy products. At the production level, farmers supply milk to co-operatively owned dairy companies for processing into various dairy products. At the apex of the co-operative structure is the New Zealand Dairy Board which comprises thirteen members, eleven of whom are representatives of the dairy farmers. The Dairy Board enjoys statutory powers to acquire and market all dairy products intended for export.

The Dairy Board Act (1961) was amended in March 1988 to reflect the Government's policy of withdrawing from direct involvement in the commercial activities of producer boards and State-owned enterprises. Given the Government's limited involvement in the Board's activities, the operations of the Dairy Board have not been significantly changed through the amending legislation.

On 1 April 1988 the town (liquid) milk sector of the dairy industry, traditionally a separate sector of the industry, was deregulated under a new Milk Act. Under the previous arrangements town milk suppliers' production was governed by individual quotas. Distribution of milk to wholesale and retail outlets was carried out by milk vendors who also provided home delivery, operating within zones prescribed by a central Milk Board.

The major feature of the deregulation was the introduction of a Milk Licensing Authority, replacing the former Milk Board, which has the powers and responsibility to ensure a year-round supply of milk. Among the functions of the Authority is the licensing of milk processors which are responsible for maintaining a home delivery service in an exclusive sales

zone. The Authority also establishes milk quality standards and undertakes minimum price fixing for home delivery zones, incorporating a fixed price differential between home delivery and supermarket prices for the protection of the home delivery service.

The production side of the town milk sector has been completely deregulated with quotas being removed and it is anticipated that the traditional distinction between town milk and factory suppliers will eventually cease to exist.

Supermarket and bulk milk deliveries are open to competition between any processor.

The new Milk Act will expire at the end of 1993, at which time the industry will be totally deregulated, and the price differential arrangements for home deliveries will cease to exist.

#### Part A

The Government of New Zealand does not fix or influence producer prices. The manufacturing dairy industry has operated a self-balancing stabilization system in its various forms for well over four decades. The fundamental aim of the system has been and remains to provide for a measure of price stabilization from season to season in the face of fluctuating returns on the international market.

Key elements of the present manufacturing dairy industry stabilization system are:

- (a) the establishment of basic values for the two main components of whole milk, namely milk fat and solids non-fat; and
- (b) operation of a self-balancing stabilization account.

The prices received by dairy farmers are determined with reference to the season's basic values for milk fat and solids non-fat (SNF) in whole milk. Under this system, the NZDB fixes the basic values for milk fat and SNF in whole milk and these values are then used to determine the purchase prices for dairy products acquired for export. Milk fat and SNF values are established with primary regard to the anticipated level of export realizations, the state of the industry's account, and the need to maintain stability and efficiency in the dairy industry.

At the end of each dairy season the Dairy Board assesses its trading accounts and if the industry has made a surplus on its sales the Dairy Board may distribute all or any part of the trading surplus by way of end-of-season payment. The balance is deposited into a stabilization reserve account. Similarly, the Dairy Board can borrow money on the commercial market to supplement farmers' incomes.

As described earlier the season's basic values for milk fat and solids non-fat (SNF) in whole milk are used by the Dairy Board to fix the purchase prices acquired for export. Actual returns received by producers can vary for each co-operative company and are influenced by such factors as variation in manufacturing costs, products manufactured, and dairy company financial distribution policies.

The change in New Zealand's exchange rate régime is of major significance to the dairy industry (and other export sectors). Prior to March 1985, New Zealand operated a managed exchange rate system under which the value of the New Zealand dollar was determined with reference to a trade-weighted basket of currencies. From March 1985 however, New Zealand has moved to a floating exchange rate system, with the day-to-day value of the New Zealand dollar being determined by market forces. For a short period after the float there was little change in the value of the New Zealand dollar, but since then the dollar has appreciated vis-à-vis several major currencies, leading to lower export returns to the dairy sector.

The basic price (received by farmers) for 1986/87 was finalized at \$3.20/kg. milk fat, some 20 per cent below the 1985/86 price, reflecting the unfavourable market outlook and the upward movement of the exchange rate. The initial basic price for the 1987/88 season was set at \$3.10/kg. milk fat. In October this was reviewed up to \$3.35. It was reviewed again in February 1988, when no change was made, and again in March when it was set at \$3.50/kg. milk fat. In May a final value for the season was fixed at \$3.60/kg. milk fat. For the 1988/89 season, the initial price was set at \$3.40/kg. milk fat. In October it was reviewed up to \$4.30/kg. milk fat. The price will be reviewed again in February and finally in May 1989.

The dairy industry introduced a voluntary scheme to curb milk production in the 1986-1987 season. Participating farmers were paid a fixed amount by the Dairy Board to reduce milk output below a base level, or to curb projected expansion in production.

A further provision of this scheme allowed the Dairy Board to reimburse dairy companies who dispose of milk or milk fat to non-traditional users after it has been collected from farmers. Payment was made according to the quantity of milk fat sold and no production base line was needed. Companies were required to obtain the best possible price from sales, and they were reimbursed up to the normal milk fat price and for any expenses incurred in handling the milk. Possible outlets for milk disposed of under this "non-processing" option included major calf rearing operations.

An industry-imposed moratorium on new milk supply from farms not having supplied for two years previously came into force on 1 October 1985. The aim of the moratorium was to check over-production and over-supply. The moratorium was due to expire on 1 October 1986 but was extended and ran throughout the 1986/87 season.

In the 1987/88 season a "butter realization differential" scheme was introduced and is now provided for on a continuing basis under the Dairy Board Act (as amended in March 1988). Under this scheme payments to dairy companies by the NZDB for export butter (and butter oil) beyond a base production level will be made on the basis of marginal rather than average market realizations.

## Part B Internal Prices and Consumption

Representative current retail prices for major dairy products are as follows:

			(\$NZ)
Liquid milk	(whole)	\$0.49 per 600 ml*	
Butter	(salted)	\$1.90 (including GST) per 500 gr. pack	
Cheese	(mild Cheddar)	\$6.00 (including GST) per 1 kg. block	

\*Standard price for home delivery: above standard prices prevail in a number of areas to cover higher costs of milk processing and distribution in those areas.

### 2 and 3. Factors and policies affecting consumption

#### (a) Liquid milk

Until 1985 the Government had a policy of subsidizing the consumption of liquid milk for direct consumption on the grounds that it was a basic food item. Following a review of its assistance and welfare policies the Government decided to terminate the milk subsidy with effect from 1 March 1985. As a consequence the consumer price was increased from 30 cents per 600 ml. bottle to 35 cents on 1 March 1985. Since then successive price increases, reflecting various internal cost increases, have lifted the consumer price of milk to 49 cents per 600 ml. bottle (home delivered).

Liquid milk and cream consumption, including ice cream, in New Zealand has increased slightly to approximately 500 million litres per annum, after 10 years gradual decline. This reversal is attributed mainly to the popularity of the new cardboard cartons and two litre plastic containers. While home deliveries have suffered, home vendors generally have not been slow to offer these alternative packages to remain competitive with supermarkets.

(b) Butter and cheese

The structure of prices for New Zealand dairy products sold on the domestic market is in a broad sense derived from the smoothing of realizations from international markets.

For approved classes of dairy products, including butter and cheese, the Dairy Board is empowered to set "notional" prices and to make payment to/extract payments from manufacturing companies to make up the difference between the "notional" prices and the prices at which the Board is purchasing product for export. These "notional" prices set the basic structure of prices for product sold by manufacturing companies on the local market. The companies are free to sell and market products at whatever price levels they choose, and through whatever distribution channels they wish but in assessing options and taking account of levies payable/receivable from the Dairy Board, they will not, all other things being equal, sell for less than the "notional" price.

Butter consumption for the year ending 31 May 1988 was 37,600 tonnes, or 11.4 kgs. per capita, just over 3 per cent down on the previous year. The domestic table fats market has changed considerably over the last decade, with butter coming under increasing competition from margarine. The Margarine Act prohibits the sale in New Zealand of margarine and fat mixes other than polyunsaturated margarine. The Government has announced its intention to repeal the Margarine Act on 1 January 1990, and new fat spread standards are currently under discussion thereby providing for the sale in New Zealand of an increased variety of margarines fat-based spreads which will inevitably have a detrimental effect on domestic butter sales.

Domestic cheese sales have continued to increase over the past decade, with consumption in the year ending May 1988 rising to 29,300 tonnes, or 8.8 kg. per capita, an increase of around 6.5 per cent over the previous year.

Part C    Measures at the frontier

1. New Zealand tariffs on dairy products are relatively low (see appendix) when compared to other countries. Following a recent review, tariffs on butter and cheese have been removed.
2. There are no quantitative restrictions or quotas on the import into New Zealand of any dairy products. Measures other than tariffs affecting import of dairy products into New Zealand include labelling and packaging regulations and marketing standards or regulations.
3. Tariff classification is according to the Harmonized System.

4. New Zealand applies a policy that permits the free flow of dairy products in international trade. Consequently no restraints and zero or low tariffs are imposed on imports. Due to economies of scale and a favourable climate, dairying is a low-cost industry and can compete openly with dairy imports. The efficiency that has been achieved can in fact be attributed to the sensitivity of the industry to international market conditions. This has forced a continuing search for economies of scale and manufacturing flexibility.

Part D Bilateral, plurilateral and multilateral agreements

1. The following trade agreements to which New Zealand is a signatory make specific provision for according preferential treatment to dairy products.

- (a) The Australia/New Zealand Closer Economic Relationship Trade Agreement (ANZCERTA). This Agreement superseded and advanced the provision of the New Zealand/Australia Free-Trade Agreement (NAFTA). Under ANZCERTA the 1,220 tonne quota relating to sendings of Cheddar cheese from New Zealand to Australia has been removed. Dairy trade between Australia and New Zealand under ANZCERTA is governed by a Memorandum of Understanding which also provides for regular joint industry consultations over matters of general industry and trade interest.
- (b) The trade agreement between the Government of New Zealand and the Government of the People's Republic of China: both signatories agree to facilitate imports from and exports to the other country with particular importance being attached to a number of specific products. For Chinese exports to New Zealand this includes agricultural products and for New Zealand exports to China this includes dairy products.
- (c) The trade agreement between the Government of New Zealand and the Government of the Federation of Malaysia: this agreement contains three categories of preferential treatment for goods enumerated in schedules attached to the agreement, which shall be accorded by one signatory to the other. The categories are:
  - (i) the rates of duty not being higher than those specified in the schedule concerned;
  - (ii) margins of preference not to be lower than those specified in the schedule concerned;
  - (iii) the preferential tariff of the signatory being used for the benefit of all other goods.

In terms of these three categories of treatment, New Zealand exports to the Federation of Malaysia of the dairy products listed below are entitled to rates of duty no higher than those specified (category (i) above):

<u>Federation of Malaysia</u> <u>Tariff item</u>	<u>Description of goods</u>	<u>Rate of duty</u>
022.022	Milk powdered, skimmed for human consumption	Free
022.023	Milk powdered, skimmed for human consumption	Free
023.012	Butter, fresh, whether salted or not. Not in airtight containers	6 cents/lb.
024.011	Cheese	7.5%
029.093	Milk-based infant food	Free

While on the dairy products listed below the margins of preference are not to be lower than those specified (category (ii) above):

<u>Federation of Malaysia</u> <u>Tariff item</u>	<u>Description of goods</u>	<u>Margin of preference</u>
022.021	Milk powdered, full	\$4 per 100 lb.
022.022	Milk powdered, skimmed for human consumption	\$4 per 100 lb.
022.023	Milk powdered, skimmed for animal consumption	\$4 per 100 lb.
023.011	Butter in airtight containers	4 cents per lb.
023.012	Butter, fresh, whether salted or not. Not in airtight containers	4 cents per lb.

#### Canada/New Zealand Trade Agreement 1982

The New Zealand/Canada Trade and Economic Co-operation Agreement came into being on 1 January 1982. The Agreement maintains the existing preferential tariff rates applied by both countries and contains provisions to develop further trade, investment and technological co-operation between Canadian and New Zealand companies.

In the Agreement Canada reaffirmed its intention to turn to New Zealand as among preferred suppliers of butter when Canada has an import requirement for butter, and to consult with New Zealand if consideration is being given to changing the import régime on cheese, buttermilk powder or casein. The Agreement provides that if, after consultation, intensification of trade restrictions still occurs, resulting in substantial impairment of the benefits of the Agreement, either contracting party is expected to provide equivalent compensatory benefits.

Tariff preferences:

	<u>New Zealand and Australia</u>	<u>MFN</u>
Casein	12 1/2 % ad valorem	25% ad valorem and 5.51 c/kg.
Milk powder	2.21 c/kg.	7.72 c/kg.
Butter	11.02 c/kg.	26.46 c/kg.
Other cheese	2.21 c/kg.	7.72 c/kg. or 6.61 c/kg.

2. In respect of New Zealand dairy exports to the European Community (EC), special access provision has been made for New Zealand butter to enter Britain. Under Protocol 18 of the Treaty of Accession negotiated at the time of British entry to the European Community, New Zealand has been provided with access to the British market for specified quantities of butter for set periods of varying length. Initially New Zealand was obliged to respect a minimum c.i.f. price on which a special variable levy was added in order to bring the selling price of New Zealand butter up to the level of internal Community butter prices. In 1981, this minimum selling price obligation was removed and replaced by a special levy system (with the levy payable tied to the UK butter market intervention price).

3. In addition to the trade agreements listed above, which contain specific provisions on according dairy products preferred treatment, New Zealand is a signatory to a number of m.f.n. trade agreements with other countries where dairy products would be eligible to receive such m.f.n. treatment.

These countries include:

- The Arab Republic of Egypt
- The Bulgarian People's Republic
- German Democratic Republic
- The Hungarian People's Republic
- The Republic of the Philippines
- The Polish People's Republic
- The Republic of Iraq

- The Republic of Italy
- The Republic of Japan
- The Republic of Korea
- The Socialist Federal Republic of Yugoslavia
- The Socialist Republic of Romania
- The Union of Soviet Socialist Republics
- The Islamic Republic of Iran

4. In the Tokyo Round of Multilateral Trade Negotiations, New Zealand signed two bilateral agreements which provided for improved trading conditions for dairy products. These agreements were signed with the United States and the EEC as published in the white paper on the negotiations published by the New Zealand Government and which is publicly available.

CHAPTER 4

Dairy Produce; Birds' Eggs; Natural Honey; Edible Products  
of Animal Origin, not Elsewhere Specified or Included

Notes

1. The expression "milk" means full cream milk or partially or completely skimmed milk.
2. Products obtained by the concentration of whey and with the addition of milk or milk fat are to be classified as cheese in heading No. 04.06 provided that they have the three following characteristics:
  - (a) a milk fat content, by weight of the dry matter, of 5 per cent or more;
  - (b) a dry matter content, by weight, of at least 70 per cent not exceeding 85 per cent; and
  - (c) they are moulded or capable of being moulded.
3. This Chapter does not cover:
  - (a) products obtained from whey, containing by weight more than 95 per cent lactose, expressed as anhydrous lactose, calculated on the dry matter (heading No. 17.02); or
  - (b) albumins (including concentrates of two or more whey proteins, containing by weight more than 80 per cent whey proteins, calculated on the dry matter) (heading No. 35.02) or globulins (heading No. 35.04).

Sub-heading note

1. For the purpose of sub-heading 0404.10, the expression "modified whey" means products consisting of whey constituents, i.e. whey from which all or part of the lactose, proteins or minerals have been removed, whey to which natural whey constituents have been added, and products obtained by mixing natural whey constituents.

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.01			Milk and cream, not concentrated nor containing added sugar or other sweetening matter:		
0401.10			- Of a fat content, by weight, not exceeding 1%:		
0401.10.01	00E	l.	-- Fresh	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
0401.10.09	00F	kg.	-- Other	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
0401.20			- Of a fat content, by weight, exceeding 1% but not exceeding 6%:		
0401.20.01	00J	l.	-- Fresh	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
0401.20.09	00K	kg.	-- Other	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.01 (cont'd)					
0401.30			- Of a fat content, by weight, exceeding 6%:		
0401.30.01	00B	l.	-- Fresh	9.5	AU free
				7/89 9	CA free
				7/90 8.5	LDC 7.5
				7/91 8	7/89 7
				7/92 7.5	7/91 6.5
					7/92 6.5
					7/92 6
					LLDC free
					Pac free
0401.30.09	00C	kg.	-- Other	9.5	AU free
				7/89 9	CA free
				7/90 8.5	LDC 7.5
				7/91 8	7/89 7
				7/92 8.5	7/91 6.5
					7/92 6
					LLDC free
					PAC free
04.02					
Milk and cream, concentrated or containing added sugar or other sweetening matter:					
0402.10.00			- In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1.5%	18	AU free
				7/89 16.5	CA 8
				7/90 15	7/89 6.5
				7/91 13.5	7/90 5
				7/92 12.5	7/91 free
					LDC 14.5
					7/89 13
					7/90 12
					7/91 11
					7/92 10
					LLDC free
					Pac free
	01E	kg.	.. Milk		
			.. Skimmed milk powder:		
	11B	kg.	... Spray process		
	19H	kg.	... Other		

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.02 (cont'd)					
0402.10.00 (cont'd)			- In powder, granules or other solid forms, of a fat content, by weight, exceeding 1.5%:		
0402.21.00			-- Not containing added sugar or other sweetening matter	18 7/89 16.5 7/90 15 7/91 13.5 7/92 12.5	AU free CA 8 7/89 6.5 7/90 5 7/91 free LDC 14.5 7/89 13 7/90 12 7/91 11 7/92 10 LLDC free Pac free
			... Whole milk powder:		
	01C	kg.	.... Prepared for use as infants' or invalids' foods		
	09J	kg.	.... Whole milk and blended full cream powder containing less than 26% butterfat		
	19F	kg.	.... Other		
	29C	kg.	... Other		
0402.29.00			-- Other	18 7/89 16.5 7/90 15 7/91 13.5 7/92 12.5	AU free CA 8 7/89 6.5 7/90 5 7/91 free LDC 14.5 7/89 13 7/90 12 7/91 11 7/92 10 LLDC free Pac free
			... Whole milk powder:		
	01K	kg.	.... Prepared for use as infants' or invalids' foods		
	09E	kg.	.... Whole milk and blended full cream powder containing less than 26% butterfat		
	19B	kg.	.... Other		
	29K	kg.	... Other		

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.02 (cont'd)			- Other:		
0402.91.00	00L	kg.	-- Not containing added sugar or other sweetening matter	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
0402.99.00			-- Other	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
	01E	kg.	... Condensed		
	09L	kg.	... Evaporated		
04.03			Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:		
0403.10.00	00E	kg.	- Yogurt	22.5 7/89 19.5 7/90 17.5 7/91 16 7/92 15	AU free CA 19.5 7/89 16.5 7/90 14.5 7/91 13 7/92 12 LDC 18 7/89 15.5 7/90 14 7/91 13 7/92 12 LLDC free Pac free

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.03 (cont'd)					
0403.90			- Other:		
0403.90.01	00L	kg.	-- Not concentrated or sweetened	9.5	AU free
				7/89 9	CA free
				7/90 8.5	LDC 7.5
				7/91 8	7/89 7
				7/92 7.5	7/91 6.5
					7/92 6
					LLDC free
					Pac free
0403.90.11	00F	kg.	-- Other: --- Liquid or semi-solid	9.5	AU free
				7/89 9	CA free
				7/90 8.5	LDC 7.5
				7/91 8	7/89 7
				7/92 7.5	7/91 6.5
					7/92 6
					LLDC free
					Pac free
0403.90.19			--- Other	18	AU free
				7/89 16.5	CA 8
				7/90 15	7/89 6.5
				7/91 13.5	7/90 5
				7/92 12.5	7/91 free
					LDC 14.5
					7/89 13
					7/90 12
					7/91 11
					7/92 10
					LLDC free
					Pac free
			.... Buttermilk powder:		
01E	kg.		..... Manufactured by the spray process method		
09L	kg.		..... Other		
			.... Other:		
11B	kg.		..... In powder or granules containing not more than 1.5% by way of fat		
19H	kg.		..... In powder or granules containing more than 1.5% by way of fat		
			..... Other:		
21K	kg.		..... Condensed		
29E	kg.		..... Evaporated		
39B	kg.		..... Other		

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
04.04			Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included:		
0404.10.00	00C	kg.	- Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter	18 7/89 16.5 7/90 15 7/91 13.5 7/92 12.5	AU free CA 8 7/89 6.5 7/90 5 7/91 free LDC 14.5 7/89 13 7/90 12 7/91 11 7/92 10 LLDC free Pac free
0404.90			- Other:		
0404.90.01	00J	kg.	-- Not concentrated or sweetened	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free PAC free
			-- Concentrated or sweetened:		
0404.90.11	00D	kg.	--- Liquid or semi-solid	9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
0404.90.19	00E	kg.	--- Other	18 7/89 16.5 7/90 15 7/91 13.5 7/92 12.5	AU free CA 8 7/89 6.5 7/90 5 7/91 free LDC 14.5 7/89 13 7/90 12 7/91 11 7/92 10 LLDC free Pac free
04.05					
0405.00.00			Butter and other fats and oils derived from milk:	Free	Free
	01F	kg.	. Butter, unsalted		
			. Butter, salted:		
	11C	kg.	.. Creamery, in pats		
	19J	kg.	.. Creamery, in bulk		
	21L	kg.	. Butter, canned		
	29F	kg.	. Anhydrous milk fat		
	31H	kg.	. Ghee		
	39C	kg.	. Other		
04.06			Cheese and curd:		
0406.10.00			- Fresh cheese (including whey cheese), not fermented, and curd	Free	Free
	01H	kg.	.. Fresh cheese		
	09C	kg.	.. Curd		
0406.20.00			- Grated or powdered cheese, of all kinds	Free	Free
	01A	kg.	.. Cheddar		
	09G	kg.	.. Colby		
	11J	kg.	.. Cheshire		
	19D	kg.	.. Egmont		
	21F	kg.	.. Gouda		
	29A	kg.	.. Other		
0406.30.00	00G	kg.	- Processed cheese, not grated or powdered	Free	Free
0406.40.00	00L	kg.	- Blue-veined cheese	Free	Free

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Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
0406.90.00			- Other cheese	Free	Free
	01G	kg.	.. In tins		
			.. Other:		
	11D	kg.	... Cheddar		
	19K	kg.	... Colby		
	21A	kg.	... Cheshire		
	29G	kg.	... Egmont		
	31J	kg.	... Gouda		
	39D	kg.	... Other		

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CHAPTER 35Albuminoidal Substances; Modified Starches; Glues; EnzymesNotes:

1. This Chapter does not cover:

- (a) Yeasts (heading No. 21.02);
- (b) Blood fractions (other than blood albumin not prepared for the therapeutic or prophylactic uses), medicaments or other products of Chapter 30;
- (c) Enzymatic preparations for pre-tanning (heading No. 32.02);
- (d) Enzymatic soaking or washing preparations or other products of Chapter 34;
- (e) Hardened proteins (heading No. 39.13); or
- (f) Gelatin products of the printing industry (Chapter 49).

2. For the purposes of heading No. 35.05, the term "dextrins" means starch degradation products with a reducing sugar content, expressed as dextrose on the dry substance, not exceeding 10 per cent.

Such products with a reducing sugar content exceeding 10 per cent fall in heading No. 17.02.

Number	Statistical key		Goods	Rates of duty	
	Code	Unit		Normal tariff	Preferential tariff
35.01			Casein, caseinates and other casein derivatives; casein glues:		
3501.10.00			- Casein	7/88 9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7/88 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
	01K	kg.	. . Acid		
			. . Other:		
	11G	kg.	. . . Rennet		
	19B	kg.	. . . Other		
3501.90.00			- Other	7/88 9.5 7/89 9 7/90 8.5 7/91 8 7/92 7.5	AU free CA free LDC 7/88 7.5 7/89 7 7/91 6.5 7/92 6 LLDC free Pac free
	01J	kg.	. . Caseinates		
	09D	kg.	. . Casein glues		
	19A	kg.	. . Other		
35.02			Albumins (including concentrates of two or more whey proteins, containing by weight more than 80% whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:		
3502.10.00	00K	kg.	- Egg albumin	Free	Free
3502.90.00			- Other	Free	Free
	01G	kg.	. . Milk		
	09B	kg.	. . Other		
35.03			Gelatin (including gelatin in rectangular (including square) sheets, whether or not surface-worked or coloured) and gelatin derivatives; isinglass; other glues of animal origin, excluding casein glues of heading No. 35.01:		
3503.00			- Gelatin (including gelatin in rectangular (including square) sheets, whether or not surface-worked or coloured) and gelatin derivatives:		
3503.00.01	00L	..	- - Specially prepared for use as culture media	Free	Free

1988

Annex\*

MJLK

No. 13

ANALYSIS

Title

Part I

Preliminary

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Part II

Town Milk Industry

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11. Cancellation of licences
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13. Certain consumers excluded from delivery requirements
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18. Authority to establish retail price differential
19. Effect of retail price differential
20. Authority may demand information
21. Authority may impose levy
22. Offences and penalties

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\*English only/Anglais seulement/Inglés solamente



Part I

Preliminary

1. Short title and commencement

- (1) this Act may be cited as the Milk Act 1988.
- (2) This Act shall come into force on the 1 April 1988.

2. Interpretation

In this Act, unless the context otherwise requires:

"Authority" means the New Zealand Milk Authority established by Section 4(1) of this Act.

"Consumers", in relation to a home delivery district, means all persons who:

- (a) buy milk within the district for human consumption; or
- (b) buy milk for resale within the district for human consumption; or
- (c) buy milk for manufacture within the district into other products for human consumption, not for the time being excluded under Section 13 of this Act from the delivery requirements of the district.

"Delivery arrangement" means an arrangement between any person and a processor or a former processor for the person to engage in the delivery of milk to consumers (whether as employee, agent, contractor, or otherwise howsoever).

"Domestic consumers", in relation to a home delivery district, means all consumers of the district who are not persons who customarily buy milk:

- (a) for resale within the district for human consumption; or
- (b) for manufacture within the district into other products for human consumption.

"Former processor" means a person who, immediately before the commencement of this Act, had a consent under Section 24 of the Milk Act 1967 to treat milk or establish or operate any plant for the treatment of milk.

"Former vendor" means:

- (a) A person who, immediately before the commencement of this Act, was approved as a milk vendor under Section 17 or Section 20 of the Milk Act 1967; or

- (b) a person who:
  - (i) at some time before that commencement voluntarily ceased to be so approved; and
  - (ii) had not before that commencement received any compensation for ceasing to be so approved; and
  - (iii) is not a party to a delivery arrangement; and includes the personal representative of a former vendor.

"Home delivery district", in relation to a processor, means a district in respect of which the processor's licence under Section 9 of this Act was granted; and

- (a) includes any area for the time being added to any such district, and any district allocated to the processor, under Section 14 of this Act; but
- (b) does not include any area for the time being taken from any such district, or removed from the processor, under that section.

"Milk" means cow's milk that (whether or not it has been treated or processed in any other way) has been pasteurised, and is intended to be sold in liquid form for human consumption; but does not include flavoured milk, ultra heat treated milk, or any cream that has been separated from milk.

"Minister" means the Minister of Trade and Industry.

"Processor" means a person for the time being holding a licence granted under Section 9 of this Act.

"Working day" means a day that is not a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, Waitangi Day, the Sovereign's birthday, or a day during a period commencing on any Christmas day and ending with the 15th day of the following January.

### 3. Act binds the Crown

This Act binds the Crown.

Part II

Town Milk Industry

4. New Zealand Milk Authority

- (1) There is hereby established the New Zealand Milk Authority.
- (2) The Authority comprises three members appointed by the Governor-General on the recommendation of the Minister, made after consultation with organizations in the opinion of the Minister representing the various sectors of the town milk industry.
- (3) The Authority is a body corporate with perpetual succession and a common seal; and is capable of holding personal (but not real) property suing and being sued and otherwise doing and suffering everything bodies corporate may lawfully do and suffer.
- (4) No member or deputy member of the Authority is personally liable for any act done or omitted by the member or deputy member, or by the Authority:
  - (a) in good faith; and
  - (b) in pursuance or intended pursuance of the functions and powers conferred on the Authority by this Act.
- (5) The provisions of the First Schedule to this Act apply to the Authority.

5. Functions of Authority

The functions of the Authority are:

- (a) to license milk processors;
- (b) to determine, allocate, modify, and reallocate home delivery districts;
- (c) to determine the retail price differential for milk under Section 18(1) of this Act;
- (d) to monitor the supply of milk, the delivery of milk to domestic consumers of home delivery districts by and on behalf of processors, and the retail prices of milk;
- (e) to report to the Minister on matters relating to the sale or delivery of milk;
- (f) any other functions conferred on it by this Act or any other enactment.

6. Powers of Authority

The Authority has:

- (a) The powers conferred on it by this Act or any other enactment; and
- (b) all other powers reasonably necessary to enable it to perform its functions.

7. Authority to comply with general Government policies

(1) Subject to the provisions of this Act, the Authority shall, in the performance and exercise of its functions and powers, comply with any general or special written directions relating to the policy of the Government given to it by the Minister.

(2) As soon as is practicable after giving the Authority any direction under subsection (1) of this section, the Minister shall:

- (a) publish a copy of it in the Gazette; and
- (b) lay a copy of it before the House of Representatives.

8. Applications for licences to process milk

(1) Any person may apply to the Authority for a licence to process milk.

(2) Every application shall be made on a form supplied by the Authority, and shall specify one or more districts in which the applicant intends to provide a home delivery service, and any other information the Authority requires.

9. Granting of licences

(1) Subject to subsections (2) and (3) of this section, if the Authority is satisfied on reasonable grounds that:

- (a) there is no person (other than the applicant) licensed under this section to process milk in respect of the districts specified by an applicant under Section 8 of this Act (or in respect of any modified or different district or districts in respect of which the Authority is prepared to grant the applicant a licence); and
- (b) the applicant is or will be able at all times to provide sufficient milk to satisfy the requirements for milk of the consumers of the districts concerned,

it shall, by written notice to the applicant specifying the districts concerned, grant the applicant a licence to process milk in respect of the districts.

(2) Where the Authority intends to grant to an applicant under Section 8 of this Act a licence to process milk in respect of districts other than those the applicant specified, it shall first notify the applicant in writing of its intention; and it shall not grant the licence to the applicant unless the applicant has notified it that the applicant agrees to those districts.

(3) Where, in the opinion of the Authority, the granting to an applicant under Section 8 of this Act of a licence to process milk in respect of any district would affect any processor, the Authority shall not grant it without first:

- (a) notifying the applicant and the processor of the proposed decision and of the fact that the processor has twenty working days to make a submission to the Authority on the application; and
- (b) sending the applicant a copy of any written submission received by the Authority from the processor within twenty working days of the processor's being notified, together with notice that the applicant has twenty working days to make a submission to the Authority on the processor's submission; and
- (c) considering:
  - (i) the processor's submission; and
  - (ii) any written submission concerning the processor's submission received by the Authority from the applicant within twenty working days of the applicant's receiving a copy of the processor's submission.

(4) No person who is not a processor shall pack, pasteurize, process, or treat any milk.

(5) Subject to subsection (6) of this section, any processor may grant to persons who have any contract, arrangement, or understanding with the processor for the delivery of milk to consumers of any of the processor's home delivery districts exclusive zones for the delivery of milk processed or bought by the processor.

(6) To the extent that any provision or part of any contract, arrangement, or understanding in force immediately before the expiry of this Act grants or has the effect of granting to any person, or provides for the acquisition by any person, of exclusive zones for the delivery of milk to the domestic consumers of any home delivery district, the provision or part shall be deemed to have been cancelled on that expiry.

10. Processors to provide home delivery service

(1) Every processor shall ensure that in each of the processor's home delivery districts milk is delivered to domestic consumers in accordance with the standards determined under Section 16 of this Act for the time being applying to them.

(2) No processor is obliged to ensure the delivery of milk to any domestic consumer who:

(a) owes the processor or a contractor of the processor money for milk sold or delivered; or

(b) has persistently refused or delayed payment for milk sold or delivered.

11. Cancellation of licences

(1) Subject to subsection (2) of this Section, if the Authority is satisfied on reasonable grounds that a processor is not at all times:

(a) providing sufficient milk to satisfy the requirements for milk of all the consumers of any of its home delivery districts; or

(b) complying with Section 10 of this Act in respect of any of its home delivery districts,

it may cancel the processor's licence in respect of the district.

(2) The Authority shall not cancel a processor's licence without:

(a) notifying the processor of the Authority's intention to do so, and of the grounds upon which it intends to do so and the fact that the processor has twenty working days to make a submission to the Authority on the proposed cancellation; and

(b) considering any written submission it receives from the processor within twenty working days of the processor's receiving the notice.

(3) On application by a processor, the Authority shall cancel the processor's licence.

12. Temporary licences

(1) Where:

(a) any processor's licence is cancelled in respect of a home delivery district; or

- (b) the Authority is satisfied that a processor is temporarily unable to comply with Section 10 of this Act in respect of a home delivery district,

the Authority may grant any person a temporary licence under this Section in respect of all or any part of the processor's home delivery districts.

(2) A licence granted under this Section shall expire after three months or any shorter period the Authority specifies when granting it; but the Authority may grant the person concerned another.

(3) The Authority may cancel a licence granted under this Section if satisfied on reasonable grounds that the person concerned is not at all times ensuring that in the area in respect of which it was granted, milk is delivered to domestic consumers in accordance with the standards determined under Section 16 of this Act in respect of it.

(4) There is no right of reconsideration of a decision to grant or cancel a licence under this Section.

(5) Where a licence under this Section is in force:

- (a) the person concerned shall be deemed to be a processor; and
- (b) the area in respect of which it was granted shall be deemed to be a home delivery district.

13. Certain consumers excluded from delivery requirements

(1) Every person who customarily buys or will buy 1,500 litres or more of milk each week for:

- (a) the manufacture within a home delivery district into other products for sale for human consumption; or
- (b) the person's own use within a home delivery district; or
- (c) both,

is excluded from the delivery requirements of the district.

(2) Any consumer of a home delivery district who customarily buys or will buy milk:

- (a) for resale within the district; or

- (b) for manufacture within the district into other products for sale for human consumption,

may apply to the Authority for exclusion from the delivery requirements of the district; and, if satisfied on reasonable grounds, that:

- (c) the exclusion will provide desirable competition in the supply of milk to the district's domestic consumers; and
- (d) the exclusion is not likely to affect adversely the ability of the district's processor to ensure that in the district milk is delivered to domestic consumers in accordance with the standards determined under Section 16 of this Act for the time being applying to them,

the Authority may exclude the consumer.

(3) The Authority shall not exclude any person from the delivery requirements of any home delivery district without first:

- (a) notifying the processor concerned of the proposed exclusion and of the fact that the process has twenty working days to make a submission to the Authority on the proposed exclusion; and
- (b) sending the person a copy of any written submission received by the Authority from the processor within twenty working days of the processor's being notified, together with notice that the person has twenty working days to make a submission to the Authority on the processor's submission; and
- (c) considering:
  - (i) the processor's submission; and
  - (ii) any written submission concerning the processor's submission received by the Authority from the person within twenty working days of the person's receiving a copy of the processor's submission.

14. Authority may modify home delivery district

(1) Subject to subsections (2) and (3) of this Section, the Authority may:

- (a) for the purpose of preserving or enhancing the delivery of milk to the domestic consumers of the district or districts concerned; or
- (b) where the effect of the Authority's action would be to reduce or abandon the delivery of milk to the domestic

consumers of any area of any district concerned; but the Authority is satisfied that:

- (i) there is in the area insufficient demand for the continued delivery of milk to its domestic consumers to justify maintaining it; and
- (ii) the processor concerned agrees to the action,

by written notice to a processor specifying the action concerned, remove, increase, reduce, or otherwise modify any of the processor's home delivery districts, or allocate to the processor any additional home delivery district.

(2) The Authority shall not take any action under subsection (1)(a) of this Section that would have the effect that the domestic consumers of the processor's home delivery districts after the taking of the action, require less milk than the domestic consumers of the processor's home delivery districts before the taking of the action required unless:

- (a) the Authority is satisfied that the processor is not at all times able to provide sufficient milk to satisfy the requirements for milk of the consumers of the latter districts; or
- (b) the processor has been convicted of an offence in respect of acting in contravention of, or failing to comply with, Section 16 of this Act in relation to the latter districts; or
- (c) the processor consents to the action.

(3) The Authority shall not take any action under subsection (1) of this Section without:

- (a) notifying every processor who or that, in the opinion of the Authority, may be affected by the proposed action, of the proposed action and of the fact that the processor has twenty working days to make a submission to the Authority on the proposed action; and
- (b) sending every such processor a copy of every written submission (if any) received by the Authority from any other such processor within twenty working days of the other processor's being notified, together with notice that the processor has twenty working days to make a submission to the Authority on the other processor's submission; and

(c) considering:

- (i) every submission a copy of which has been sent to a processor under paragraph (b) of this subsection; and
- (ii) every written submission concerning those submissions or any of them received by the Authority from any such processor within twenty working days of the processor's receiving a copy of the submission or submissions concerned.

15 Re-examination of decisions

(1) Where the Authority decides to refuse an applicant under Section 8 of this Act a licence to process milk, the applicant has a right of re-examination of the decision by an arbitrator.

(2) Where the Authority decides to notify an applicant under Section 8 of this Act that it intends to grant the applicant a licence to process milk in respect of districts other than those the applicant specified, the applicant has a right of re-examination of the decision by an arbitrator.

(3) Where the Authority decides to cancel a processor's licence to process milk, the processor has a right of re-examination of the decision by an arbitrator.

(4) Where the Authority decides to refuse to exclude from the delivery requirements of a home delivery district an applicant under Section 13(2) of this Act, the applicant has a right of re-examination of the decision by an arbitrator.

(5) Where the Authority decides to exclude from the delivery requirements of a home delivery district an applicant under Section 13(2) of this Act, the district's processor has a right of re-examination of the decision by an arbitrator.

(6) Where the Authority decides to remove, increase, reduce, or otherwise modify any of a processor's home delivery districts, or allocate to the processor any additional home delivery district, the processor, and every other processor affected by the decision, has a right of re-examination of the decision by an arbitrator.

(7) The Second Schedule to this Act applies to the right of re-examination conferred by this Section.

16. Authority to determine minimum standards

(1) Subject to subsections (2) and (3) of this Section, the Authority shall from time to time, by notice in the Gazette, determine in

relation to the delivery of milk by and on behalf of processors, minimum standards relating to:

- (a) the frequency of delivery of milk to domestic consumers; and
- (b) the times at which milk is to be delivered to domestic consumers; and
- (c) by reference to:
  - (i) the distance of homes or milk-boxes from the road or street; and
  - (ii) the nature of the access to homes or milk-boxes from the road or street,

the extent (if any) to which processors may not be required to ensure the delivery of milk to domestic consumers;

and different standards may be determined for consumers of different classes or descriptions.

(2) No notice under subsection (1) of this Section shall come into force before the expiration of ten working days after the date of its publication.

(3) The Authority shall not determine standards under subsection (1) of this Section without first consulting organizations in the opinion of the Authority representing processors.

(4) The Authority may from time to time, on application by a processor, exempt the processor from any requirement of the standards determined under subsection (1) of this Section; and may at any time, by written notice to the processor, cancel or modify the exemption.

(5) No processor shall deliver milk, or cause milk to be delivered, to consumers in its home delivery districts otherwise than in accordance with the standards for the time being determined under this Section.

17. Exclusivity of home delivery districts

(1) No person shall cause to be delivered to the home of any domestic consumer of a home delivery district any milk that was not processed or bought by the district's processor unless the consumer bought the milk in a shop occupied by the person.

(2) No person shall sell or deliver to any person (not being a person for the time being excluded under Section 13 of this Act from the delivery requirements of the district concerned) in any home delivery district any milk that was not processed or bought by the district's processor.

18. Authority to establish retail price differential

(1) Subject to subsections (2) and (3) of this Section, the Authority shall from time to time by notice in the Gazette establish a retail price differential for the purposes of Section 19 of this Act.

(2) No notice under subsection (1) of this Section shall come into force before the expiration of ten working days after the date of its publication.

(3) The Authority shall not establish a price or percentage under subsection (1) of this Section without first consulting organizations in the opinion of the Authority representing the various sectors of the town milk industry.

19. Effect of retail price differential

(1) In this Section:

"Differential" means the retail price differential for the time being established under Section 18(1) of this Act;

"Minimum retail price", in relation to a processor, means the lowest price at which milk processed by the processor is for the time being sold to domestic consumers in any of the processor's home delivery districts (being domestic consumers who customarily buy less than thirty litres of milk each week);

"Permitted resale price", in relation to a processor, means the processor's minimum retail price minus the differential.

(2) Subject to subsection (3) of this Section, any processor may, as a condition of the sale of any milk processed by the processor, determine the price at which it is to be resold.

(3) Every processor shall take all reasonable steps to ensure that:

(a) all consumers (other than domestic consumers) of the processor's home delivery district are informed of the processor's permitted resale price; and

(b) no milk sold by the processor is resold at a price below the processor's permitted resale price.

(4) Every person who resells milk bought from a processor shall take all reasonable steps to ensure that it is not resold at a price below the processor's permitted resale price.

(5) No processor shall sell milk to any domestic consumer at a price below the processor's permitted resale price.

20. Authority may demand information

A processor shall, as soon as is reasonably practicable after receiving written demand from the Authority, give the Authority such of the following information as the Authority specifies:

- (a) the prices (per litre) at which the processor sells milk to consumers in any of the processor's home delivery districts;
- (b) any information relating to the delivery of milk to the houses and businesses of consumers in any such district by or on behalf of the processor;
- (c) any information relating to the quantities of milk normally sold in any such district by or on behalf of the processor, the categories of milk so sold, and the categories of person to whom or which milk is so sold.

21. Authority may impose levy

(1) Subject to subsections (2) and (3) of this Section, the Authority may from time to time by notice in the Gazette, for the purpose of providing funds to enable the Authority to perform its functions:

- (a) impose on processors a levy (at a rate not exceeding 1 cent per litre) on the milk they process; and
- (b) subject to paragraph (a) of this subsection, specify the rate and method of calculation of the levy.

(2) The Authority shall not impose a levy under subsection (1) of this Section without first consulting organizations in the opinion of the Authority representing the various sectors of the town milk industry.

(3) No notice under subsection (1) of this Section shall come into force before the expiration of ten working days after the date of its publication.

(4) Every processor shall, within thirty days of its falling due, pay to the Authority any levy imposed under subsection (1) of this Section.

(5) The Authority may recover from any processor, as a debt due to the Authority, any amount not paid under subsection (4) of this Section.

22. Offences and penalties

Every person commits an offence against this Act, and shall be liable on summary conviction to:

- (a) a fine not exceeding \$NZ 50,000 in the case of a body corporate;  
and
- (b) a fine not exceeding \$NZ 5,000 in any other case,

who acts in contravention of or fails to comply with any of Sections 16 to 20 of this Act.

PART III

Transitional Provisions Relating to Milk Vendors

23. Former vendors

(1) Any former vendor may, within three months of the commencement of this Act, by written notice to the Authority apply to the Authority for compensation for the loss of the goodwill of the vendor's former milk delivery business.

(2) Where the Authority is satisfied that an applicant under subsection (1) of this Section has executed a bond requiring the former vendor to repay to the Authority all or an appropriate part of the compensation if:

(a) the applicant turns out to have been a party to a delivery arrangement; or

(b) later becomes a party to a delivery arrangement,

it shall pay the applicant compensation for the loss of the applicant's former milk delivery business.

(3) The amount to be paid under subsection (2) of this Section in relation to any former vendor is \$NZ 1,000 more than the maximum amount that would have been payable under Section 32 of the Milk Act 1967 on the first day of November 1987.

24. Limitations on goodwill payments

No processor shall require any former vendor to pay any sum for, or as a condition of, the processor's entering into a delivery agreement with the vendor within three months of the commencement of this Act.

25. Performance bonds, etc.

(1) Notwithstanding Section 24 of this Act, a processor may, for or as a condition of the processor's entering into a delivery agreement with any person, require the person, at the person's option, to:

(a) execute one bond; or

(b) lodge one sum of money with any other person,

as a security in respect of milk tokens supplied, or as a security against the person's default under the agreement, or for both reasons.

(2) No former vendor shall be required under subsection (1) of this Section to enter into a bond for, or lodge a sum of money exceeding \$NZ 5,000.

(3) Where within three months of the commencement of this Act a former vendor is required under subsection (1) of this Section to enter into a bond for, or lodge a sum of money, the vendor may notify the Authority and the processor concerned that the vendor wishes to execute a bond and have it guaranteed by the Authority; and in that case:

- (a) the vendor may execute a bond for the amount concerned; and
- (b) the Authority shall guarantee it; and
- (c) the vendor shall be liable under the bond to the extent (if any) only that the maximum goodwill of the vendor's former milk delivery business (calculated under Section 32 of the Milk Act 1967) on 1 November 1987 was less than \$NZ 5,000; and
- (d) the Authority shall be liable under the bond to the extent that the vendor is not liable under it; and
- (e) the Authority shall have no right to be indemnified by the vendor in respect of the Authority's liability under the bond.

PART IV

Repeals, Savings, Consequential Amendments, and Expiry

26. Repeals, and abolition of Milk Board

(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) The Orders in Council, notices, and determinations specified in the Fourth Schedule to this Act are hereby revoked.

(3) The New Zealand Milk Board constituted under the Milk Act 1967 is hereby abolished.

(4) The Milk Appeal Authority established by Section 57A of the Milk Act 1967 is hereby abolished.

(5) All rights, assets, liabilities, and debts that the said Board had immediately before the commencement of this Act shall on that commencement, be deemed to have become rights, assets, liabilities, and debts of the Minister.

27. Consequential amendments

(1) The Food Act 1981 is hereby consequentially amended by inserting, after Section 11, the following section:

"11A.(1) except as provided in subsection (2) of this Section, no person shall sell, resell, or buy any raw milk.

"(2) A milk producer may sell raw milk to any person if:

"(a) It is sold:

"(i) At the producer's dairy premises; and

"(ii) In a quantity not exceeding 5 litres at any one time;  
and

"(b) The person intends the milk for consumption by the person or the person's family;

and the person may buy it accordingly

"(3) Subsection (2) of this Section is subject to section 9 of this Act."

(2) The Second Schedule to the Official Information Act 1982 (as substituted by Section 23(1) of the Official Information Amendment Act 1987 and from time to time thereafter amended) is hereby consequentially amended by omitting the item "New Zealand Milk Board", and substituting the item "New Zealand Milk Authority".

28. Savings

(1) Every former processor shall be deemed to have been granted a licence under Section 9 of this Act on the commencement of this Act.

(2) As soon as is practicable after the commencement of this Act, the Authority shall, by written notice to each former processor, allocate one or more home delivery districts to the processor; and, subject to Section 15 of this Act, each district so allocated shall be deemed to have been allocated under Section 9 of this Act.

(3) Until a former processor is allocated home delivery districts under subsection (2) of this Section, this Act applies to every area within which, in the month before the commencement of this Act, milk vendors customarily delivered milk processed by the processor, as if the area is a home delivery district of the processor.

(4) Until a differential is in fact established under Section 18(1) of this Act a differential of three cents per litre shall be deemed to have been so established.

(5) Until a levy is in fact imposed under Section 21(1) of this Act, a levy of one third of a cent per litre shall be deemed to have been so imposed.

(6) Until three months after the commencement of this Act, every person who immediately before that commencement had an authority under Section 54 of the Milk Act 1967 shall be deemed to be excluded under Section 13 of this Act from the delivery requirements of the home delivery district concerned.

29. Expiry of Act

(1) This Act shall expire with the close of the thirty-first day of March 1993.

(2) On the expiry of this Act:

(a) the Authority shall be deemed to have been abolished; and

(b) all rights, assets, liabilities, and debts that the Authority had immediately before the expiry shall be deemed to have become rights, assets, liabilities and debts of the Minister.

FIRST SCHEDULE

Section 4(5)

Administrative Provisions Applying to New Zealand Milk Industry

1. President of Authority

(1) From time to time, as the office is or becomes vacant, the Minister shall appoint one member of the Authority to be President.

(2) No person who has a pecuniary interest (otherwise than as a consumer) in the production, treatment, distribution, or sale of milk shall be appointed President.

2. Terms of office

(1) Every member of the Authority shall hold office for a term of two years but may from time to time be reappointed.

(2) Notwithstanding subclause (1) of this clause, every member of the Authority shall continue in office until a successor is appointed or the office becomes vacant under clause 3 of this Schedule, whichever is the sooner.

3. Extraordinary vacancies

(1) The Governor-General may dismiss any member of the Authority for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) The Governor-General may dismiss the President of the Authority if satisfied that the President has a pecuniary interest (otherwise than as a consumer) in the production, treatment, distribution, or sale of milk.

(3) Any member of the Authority may resign by written notice to the Minister.

(4) The office of a member of the Authority becomes vacant, and the vacancy is extraordinary, if the member dies, resigns, or is dismissed.

(5) Notwithstanding clause 2(1) of this Schedule, every member of the Authority appointed to fill an extraordinary vacancy shall hold office for the residue of the term of the vacating member.

(6) The powers of the Authority are not affected by any vacancy in its membership.

4. Deputies of members

(1) If satisfied that a member of the Authority is unable by reason of illness, absence, or other sufficient reason to discharge the duties of the member's office, the Minister may, after consulting the Authority appoint a deputy to act for the member.

(2) At any meeting of the Authority not attended by a member, the member's deputy may act in place of the member.

(3) Neither the appointment of a deputy nor any act done by a deputy of the Authority shall in any proceedings be questioned on the grounds that the occasion for any deputy's appointment had not arisen or had ceased.

5. Meetings of the Authority

(1) The Authority shall meet at times and places it or its President from time to time determines.

(2) The quorum for a meeting of the Authority is two members.

(3) At meetings of the Authority:

(a) the President shall preside if present;

(b) if the President is absent, the President's deputy shall preside if present;

(c) if the President and President's deputy are absent, a member agreed by the members present or, if they cannot agree, chosen by lot,

(4) Subject to subclause (6) of this clause, every question before the Authority shall be decided by a majority of the valid votes recorded on it.

(5) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, a casting vote.

(6) A written resolution signed, or assented to by letter, telegram, facsimile transmission, or telex, by all members of the Authority (not being deputies) is as valid and effectual as if duly passed at a meeting of the Authority.

(7) Except as provided in this Act, the Authority may regulate its own procedures.

6. Remuneration and travelling allowances of the Authority

The members of the Authority shall be paid fees, salary, allowances, and travelling allowances and expenses for the time being determined by the Minister.

7. Officers and employees

(1) The Authority may employ any officers and employees it thinks necessary to perform its functions efficiently.

(2) The Authority may pay its officers and employees any salaries, wages, and allowances it thinks fit.

8. The Authority may enter into contracts

Without limiting the generality of Section 6 of this Act, the Authority may agree with any department of State or other organization for the performance of any of the Authority's functions; and in that case the department or organization concerned may act accordingly.

9. Contracts generally

The Authority is a public body for the purposes of the Public Bodies Contracts Act 1959.

10. Investment of funds

The Authority may invest any of its funds available for investment in any manner it wishes.

11. Bank accounts

The Authority may open and maintain bank accounts at any banks within New Zealand.

12. The Authority to prepare financial statements

(1) As soon as is practicable after the thirty-first day of May in each year, the Authority shall prepare the following statements:

- (a) statements of the Authority's financial position at the end of the year ending with that day;
- (b) statements of all changes in the Authority's financial position during the year;
- (c) statements of the Authority's revenue and expenditure during the year;
- (d) such other statements as are necessary to show fully the Authority's financial position during the year.

13. Audit of accounts and financial statements

(1) The audit office shall audit the accounts of the Authority, and the financial statements.

(2) For the purposes of subclause (1) of this clause, the audit office shall have and may exercise and perform all the functions, duties, and powers that it has under the Public Finance Act 1977 in respect of the money and shares of a local authority.

14. Annual report and statements to be laid before the House of Representatives

(1) As soon as is practicable after the statements referred to in clause 12 of this Schedule have been prepared in respect of any year and audited, the Authority shall prepare and give to the Minister a report of its proceedings and operations for the year, together with a copy of the statements and the report of the audit office on them, and a report on the operation and state of the town milk industry during the year.

(2) As soon as is practicable after receiving copies of any such report, statements, and report of the audit office, the Minister shall lay copies before the House of Representatives.

SECOND SCHEDULE

Section 15(7)

Provisions Relating to Re-examination of Decisions

1. Authority to give reasons

Subject to Clause 2 of this Schedule, where the Authority makes a decision of which any person has a right of re-examination, it shall give every person who has that right:

- (a) notice in writing of its reasons for making the decision; together with
- (b) notice in writing that the person has ten working days to apply for re-examination of the decision.

2. Notification of processors

Clause 1 of this Schedule does not require the Authority to notify any processor of its reasons for making a decision of the kind referred to in Section 15(6) of this Act unless, in the opinion of the Authority, the processor may be affected by the decision.

3. When decisions to take effect

(1) Subject to paragraphs (m) and (o) of subclause (2) of this Clause, a decision of which any person has a right of re-examination takes effect upon the expiration of ten working days after:

- (a) the receipt of notice under Clause 1 of this Schedule by the person required by that subsection to be notified, where only one person is required to be notified; and
- (b) the receipt of notice under Clause 1 of this Schedule by the person required by that subsection to be notified who is the last to be notified, in every other case.

(2) Where before a decision would otherwise take effect under subclause (1) of this Clause, any person who has a right of re-examination of the decision gives the Authority notice in writing that the person requires the

- (a) in this subclause, "the parties" means every person who:
  - (i) is required by Clause 1 of this Schedule to be notified of the Authority's reasons for the decision; or

- (ii) has a right of re-examination of the decision, and has, before the decision would otherwise have taken effect, given the Authority notice in writing that the person requires the decision to be re-examined;
- (b) every arbitrator appointed under this subclause shall be the holder of a current practising certificate as a barrister and solicitor of the High Court;
- (c) subject to paragraph (b) of this subclause, where, before the expiration of ten working days after the decision would otherwise have taken effect, the parties and the Authority agree on an arbitrator, the agreed person shall be arbitrator in relation to the decision;
- (d) where the parties and the Authority do not agree on an arbitrator before the expiration, the Authority shall forthwith on that expiration give the Minister written notice that an arbitrator must be appointed, together with a brief written description of the nature of the decision and a copy of the Authority's reasons for making it;
- (e) subject to paragraph (b) of this subclause, within five working days of being notified under paragraph (d) of this subclause, the Minister shall by written notice to the Authority appoint an arbitrator to re-examine the decision;
- (f) forthwith upon knowing the identity of the arbitrator, the Authority shall give all the parties written notice that:
  - (i) the decision is to be re-examined; and
  - (ii) the parties have ten working days to forward to the Authority their written submissions to the arbitrator;
- (g) forthwith upon the expiration of ten working days after the receipt of notice under paragraph (f) of this subclause by the party who is the last to be notified, the Authority shall send to each party and the arbitrator copies of:
  - (i) every submission received by the Authority before that expiration; and
  - (ii) the Authority's own written submission to the arbitrator,

together with notice that the parties have ten working days to give the Authority written responses to those submissions;

- (h) forthwith upon the expiration of ten working days after the receipt of notice under paragraph (g) of this subclause by the party who is the last to be notified, the Authority shall send to each party and the arbitrator copies of:
  - (i) every response received by the Authority before that expiration; and
  - (ii) the Authority's own response to the submissions;
- (i) the arbitrator may request any additional written information or submission from any party or the Authority;
- (j) subject to paragraph (i) of this subclause, the arbitrator shall issue to
- (k) subject to paragraph (l) of this subclause, the arbitrator shall either:
  - (i) confirm the decision; or
  - (ii) substitute for it any other decision the Authority might lawfully have made;
- (l) the arbitrator shall confirm the decision unless satisfied that some other decision is more appropriate;
- (m) the confirmed or substituted decision shall take effect when it is received by the Authority or on any later date specified in the determination;
- (n) the Authority shall give the parties copies of the determination forthwith on receiving it;
- (o) where, before a determination is issued, all the parties have notified the Authority that they have abandoned the re-examination of the decision, the decision shall take effect immediately and, subject to paragraph (p) of this subclause no determination shall proceed;
- (p) every determination shall specify the arbitrator's costs in undertaking the arbitration and the proportions in which the parties and the Authority should pay them, and where a re-examination is abandoned, the arbitrator shall issue a determination specifying those matters;
- (q) the Authority shall pay all the arbitrator's costs, but may recover from each of the parties, as a debt due to the Authority, the appropriate proportion of those costs.

THIRD SCHEDULE

Section 26(1)

Enactments Repealed

- 1953, No. 7 : The Ministry of Agriculture and Fisheries Act, 1953:  
So much of the Schedule as relates to the Milk Act, 1967
- 1967, No. 53: The Milk Act, 1967 (R.S., Volume 18, page 451)
- 1971, No. 75: The Milk Amendment Act, 1971 (R.S., Volume 18, page 502)
- 1973, No. 75: The Milk Amendment Act, 1973 (R.S., Volume 18, page 503)
- 1978, No. 30: The Milk Amendment Act, 1978 (R.S., Volume 18, page 504)
- 1980, No. 60: The Milk Amendment Act, 1980 (R.S., Volume 18, page 504)
- 1982, No. 41: The Milk Amendment Act, 1982 (R.S., Volume 18, page 507)
- 1986, No. 5 : The Commerce Act, 1986: So much of the Second Schedule as  
relates to the Milk Act, 1967
- 1987, No. 40: The Milk Amendment Act, 1982 (R.S., Volume 18, page 507)

FOURTH SCHEDULE

Section 26(2)

Orders in Council, Notices, and Determinations Revoked

<u>Title or description</u>	<u>Gazette reference or Statutory Regulations serial number</u>
The Milk Board Election Regulations, 1945	S.R. 1945/78
The Milk Board Election Regulations, 1945, Amendment No. 1	S.R. 1947/190
The Milk Board's (Travelling Expenses) Regulations, 1948	S.R. 1948/90
The Milk Delivery Regulations, 1949	S.R. 1949/150
The Milk Authorities Appeals Regulations, 1952	S.R. 1952/35
The Western Bay of Plenty Supply Association Order, 1965	S.R. 1965/85
The Milk Marketing Order, 1968	S.R. 1968/147
The Milk Districts Order, 1968	<u>Gazette</u> , 1968, Volume II, page 1403
The Milk Treatment and Delivery Allowances Notice, 1968	<u>Gazette</u> , 1968, Volume II, page 1645
The notice approving associations of producers and operators of premises and plant for the treatment of milk	<u>Gazette</u> , 1968, Volume II, page 1466
Milk prices notices	<u>Gazette</u> , 1968, Volume II, pages 1467-1470
The Milk Regulations, 1973	S.R. 1973/150
The Milk Marketing Order, 1986, Amendment No. 1	S.R. 1973/237
The Milk Order, 1978	S.R. 1978/273

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Title or description	Gazette reference or Statutory Regulations serial number
The Milk Marketing Order, 1968, Amendment No. 2	S.R. 1979/159
The Milk Treatment Regulations Revocation Order, 1979	S.R. 1979/166
The Milk Districts Order, 1968, Amendment	<u>Gazette</u> , 1979, page 299
The Milk Producer Allowances Notice, 1981	<u>Gazette</u> , 1982, page 179
The Milk Price Notice (No. 2), 1985	<u>Gazette</u> , 1985, page 3632
The Milk Producer Prices and Allowances Notice, 1986	<u>Gazette</u> , 1986, page 3727
The Milk Price Notice, 1986	<u>Gazette</u> , 1986, page 4037
The Retail Milk Margins Notice, 1986	<u>Gazette</u> , 1986, page 4037
The Milk Producer Prices and Allowances Notice, 1986, Amendment No. 1	<u>Gazette</u> , 1987, page 1794
The Milk Delivery (Margins and Allowances) Order, 1987	<u>Gazette</u> , page 4725

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This Act is administered in the Department of Trade and Industry.

DAIRY BOARD ACT 1961

With All Amendments Included  
as at 31 May 1988

DAIRY BOARD ACT 1961

(with all amendments included as at 31 May 1988)

Note: This version of the Dairy Board Act 1961 incorporates all subsequent amendments Acts up until 31 May 1988. These amendment Acts have either been consolidated into the text of the principal Act or reproduced as separate legislation where no amendment has been made to the text of the principal Act. Reference to the Table of Contents (overleaf) will indicate which amendment Acts have been reproduced as separate legislation.

In the preparation of this version of the Dairy Board Act, meticulous care has been exercised by the Board's Legal Section to provide an exact reproduction of the official wording for use by the dairy industry. Some printing changes have been adopted however, both for convenience and to aid readability.

However, the Board accepts no responsibility for the results of any actions taken on the basis of information in the text, nor for any errors or omissions. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

1. Dairy Board Act 1961, incorporating:

Dairy Board Amendment Act 1962  
Dairy Board Amendment Act 1963  
Decimal Currency Act 1964: s. 7  
Dairy Board Amendment Act 1965  
Dairy Board Order 1966 (S.R. 1966/115)  
Dairy Board Amendment Act 1967  
Dairy Board Amendment Act 1969  
Dairy Board Amendment Act 1971  
Dairy Board Amendment Act 1972  
Ministry of Agriculture and Fisheries Amendment Act 1972:  
    S. 3(6)(a)  
    S. 3(6)(b)  
    S. 3(6)(c)  
    S. 4(1)  
Wool Marketing Corporation Act 1972: s. 61(1)  
Dairy Board Amendment Act 1973  
Pork Industry Act 1974: s. 35  
Dairy Board Amendment Act 1975  
Dairy Board Amendment Act 1977  
Dairy Board Amendment Act 1979  
Dairy Board Amendment Act 1980  
Dairy Board Amendment Act 1985  
Dairy Board Amendment Act 1986  
Dairy Board Amendment Act 1988  
Finance Act (No. 2) 1988 s. 4

2. The Dairy Board Amendment Act 1965  
    S. 10

3. The Dairy Board Amendment Act 1969  
    S. 2

4. The Dairy Board Amendment Act 1988  
    S. 13  
    S. 14

1. DAIRY BOARD ACT 1961 (amended as at May 1988)

Analysis

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13	General functions of Board	
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		31 Acquisition and marketing by Board of dairy produce manufactured overseas
		32-38 Repealed

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1. DAIRY BOARD ACT 1961 (amended as at May 1988)

Analysis (cont'd)

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		50	Unauthorized expenditure
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		55	Board to have powers of Commission of Inquiry
39	Development of dairy industry	56	Repealed
40	Bobby calves, containers, and zoning of supplies of milk or cream	57	Exemption from taxation
		58-65	Repealed
40A	Repealed	66	Board to prepare financial statements
41	Levy on dairy produce	67	Audit of accounts and financial statements
42-44	Repealed		
45	Superannuation for employees of dairy companies	67A	Annual report and statements to be laid before House of Representatives
46	Repealed		
		68	Offences
		69	Regulations
	<u>PART IV</u>	70-72	Repealed
	<u>MISCELLANEOUS PROVISIONS</u>		
47			
48	Officers of Board		
	Performance of functions by Ministry of Agriculture and Fisheries or other agent on behalf of Board		

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THE DAIRY BOARD ACT 1961

An Act to consolidate and amend the law relating to the acquisition and marketing of dairy produce, to establish the New Zealand Dairy Board, and to define its functions and powers.

(30 August 1961)

1. Short Title and commencement

- (1) This Act may be cited as the Dairy Board Act 1961.
- (2) This Act shall come into force on the first day of September 1961.

2. Interpretation

In this Act, unless the context otherwise requires:

"Board" means the New Zealand Dairy Board established under this Act.

"Commission" means the New Zealand Dairy Products Marketing Commission established under the Dairy Products Marketing Commission Act 1947.

"Containers" means butter boxes, cheese crates, casein containers, and milk powder containers, either complete or in parts; and includes anything in which any dairy produce is packed.

"Dairy Board" means the New Zealand Dairy Board established under the Dairy Board Act 1953.

"Dairy Factory" means a factory for the time being registered as a manufacturing dairy pursuant to regulations under the Dairy Industry Act 1952.

"Dairy produce" includes:

- (a) milk and cream; and
- (b) butter, cheese, and all other products of milk or cream, whether derived therefrom by manufacturing processes or otherwise; and
- (c) any compound or mixture that contains or is derived from milk, cream, or any product of milk or cream, and that is declared by Order in Council to be dairy produce for the purposes of this Act.

"Director" means a director of the Board.

"Export produce" means produce intended for export; and includes:

- (a) any goods or produce manufactured in New Zealand and intended for export that contain more than thirty per cent by weight of dairy produce; and
- (b) any milk or cream acquired by the Board from a co-operative dairy company for the purposes of manufacture into a product intended for export.

"Manufacturer" means a person who occupies a dairy factory; and, in relation to any dairy factory, means its occupier.

"Minister" means the Minister of Agriculture.

"Own-supply milkfat", in relation to a manufacturer in any season, means the milkfat contained in milk or cream produced by the manufacturer during the season, or acquired by the manufacturer during the season:

- (a) from supplying shareholders of the manufacturer; or
- (b) pursuant to arrangements between the manufacturer and the farmers who produced the milk or cream (not being supplying shareholders of the manufacturer), requiring the farmers to supply to the manufacturer all milk or cream (as the case requires) produced by the farmers, during the season and not required by the farmers; or
- (c) from milk stations (within the meaning of Section 2 of the Dairy Industry Act 1952):

- but does not include the milkfat contained in any milk or cream sold by the manufacturer for, or for resale for, human consumption in New Zealand in liquid form.

"Season" means a period of twelve months ending with the thirty-first day of May in any year.

"Supplying shareholder" has the same meaning as in Section 2(1) of the Co-operative Dairy Companies Act 1949.

2A. How approval of dairy industry to be obtained:

- (1) Where, in this Act, the Board is forbidden to take any action without the approval of the dairy industry, the Board shall not take the action unless (whether before or after the commencement of the Dairy Board Amendment Act 1988):

- (a) the Board has obtained, at a meeting of duly authorized representatives of manufacturers or in writing, the approval of the taking of the action of manufacturers (including, as the case requires, successors of manufacturers) whose aggregate own-supply milk fat during the most recent complete season and the two seasons before it was, in the opinion of the Board, not less than two-thirds of the aggregate quantity of the own-supply milk fat of all manufacturers for the period; or
  - (b) the Board has obtained, at a meeting of duly authorized representatives of manufacturers or in writing, the approval of the taking of the action of manufacturers (including, as the case requires, successors of manufacturers) whose aggregate own-supply milk fat during the most recent complete season and the two seasons before it was, in the opinion of the Board, more than half of the aggregate quantity of the own-supply milk fat of all manufacturers for the period; and not more than one manufacturer failed or refused to approve the taking of the action.
- (2) For the purpose of determining how many manufacturers have failed or refused to approve the taking of an action:
- (a) no account shall be taken of any manufacturer that is a subsidiary of any other manufacturer; and
  - (b) any two or more manufacturers that are effectively under the same control shall be treated as a single manufacturer.

PART I

NEW ZEALAND DAIRY BOARD

3. New Zealand Dairy Board established:

(1) There is hereby established a Board, to be called the New Zealand Dairy Board.

(2) The Board shall comprise:

- (a) two directors appointed by the Governor-General on the recommendation of the Minister; and
- (b) seven directors, of whom one shall be elected for each of the wards described in the First Schedule to this Act, and two shall be elected for each of the wards described in the Second Schedule to this Act;
- (c) a director elected in a manner determined by the Board for the purpose of this paragraph;
- (d) three directors appointed by the New Zealand Co-operative Dairy Company Limited.

(2A) The Board shall not without the approval of the dairy industry determine any manner of election for the purpose of sub-section (2)(c) of this Section; and where any such manner is determined, the determination of any such manner previously determined shall be deemed to have been revoked.

(3) Subject to the provisions of this Act, each director elected under paragraph (b) of sub-section (2) of this Section shall be elected by the manufacturers (other than the New Zealand Co-operative Dairy Company Limited) which are occupiers of the dairy factories situated within the ward for which the director is to be elected.

(4) The Board is a body corporate, with perpetual succession and a common seal.

3A. Board to have powers of natural person

(1) Except as provided in this Act, the Board has:

- (a) the rights, powers, and privileges of a natural person; and
- (b) the power to issue debentures; and
- (c) the power to grant floating charges on the Board's undertaking or property, or any of it; and

- (d) the power to do any other thing it is authorized to do by:
  - (i) this Act; or
  - (ii) any other enactment; or
  - (iii) any rule of law.

(2) Paragraphs (b) to (d) of sub-section (1) of this Section do not affect the generality of paragraph (a) of the sub-section.

(3) The Board shall not exercise any of its rights, powers, or privileges except for the purpose of performing its functions.

4. Terms of members of Board

(1) Except as otherwise provided by this Act, a director shall be appointed or elected:

- (a) in the case of a person who before his appointment or election has attained the age of sixty-eight years, for a term expiring with the thirtieth day of June in the year following the year of his appointment or election;
- (b) in the case of a person who before his appointment or election has attained the age of sixty-four years but has not attained the age of sixty-eight years, for a term expiring with the thirtieth day of June next following the 68th anniversary of his birth;
- (c) in any other case, for a term expiring with the thirtieth day of June in the fourth year following the year of his appointment or election.

(2) Notwithstanding sub-section (1) of this Section, every director, unless he sooner vacates his office under Section 7 of this Act, shall continue in office until his successor comes into office.

5. Chairman and Deputy Chairman of Board

(1) The Chairman of the Board shall be elected by the Board from among the directors in the month of June in each year.

(2) At any time the Board, may from among the directors, elect not more than two Deputy Chairmen, and any Deputy Chairman so elected shall hold office for a term of one year from the date of his election, but may from time to time be re-elected.

6. Deputies of members

(1) In any case in which the Minister is satisfied that any director, appointed under paragraph (a) of sub-section (2) of Section 3 of this Act, is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for that director during his incapacity.

(2) In any case in which the Minister is satisfied that any director, other than a director appointed under paragraph (a) of sub-section (2) of Section 3 of this Act, is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may, on the recommendation of the Board in the case of an elected director, and on the recommendation of the New Zealand Co-operative Dairy Company Limited in the case of a director appointed by that company, appoint a deputy to act for that director during his incapacity.

(3) Any deputy appointed under this Section shall, while he acts as such, be deemed to be a director appointed or elected under the same provision as the director of whom he is the deputy.

(4) No appointment of a deputy and no acts done by him as such, and no act done by the Board while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

7. Extraordinary vacancies

(1) Any director may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

(2) If any director dies or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) Except as provided by Section 8 of this Act, an extraordinary vacancy shall be filled by the appointment of some qualified person in the same manner as the appointment of the vacating director.

(4) Every person appointed or elected to fill an extraordinary vacancy shall be appointed or elected for the residue of the term for which the vacating director was appointed or elected.

(5) The powers of the Board shall not be affected by any vacancy in the membership thereof.

8. Filling extraordinary vacancy where member elected

(1) In the event of an extraordinary vacancy occurring in the office of any elected director, the vacancy shall be filled by an election in the manner prescribed by regulations under this Act.

Provided that where any such vacancy occurs within six months before the expiry of the term of office of the director whose office has become vacant, the Board may by resolution determine:

- (a) that the vacancy shall be filled by appointment by the Board of a person qualified to be elected as a director; or
- (b) that the vacancy shall not be filled until the next election of directors is held.

(2) Every person appointed by the Board pursuant to this Section shall for all purposes be deemed to have been elected to fill the vacancy.

9. Repealed

10. Election of members

(1) A person shall be appointed under the provisions of the State Sector Act 1988 to act as Returning Officer; and the Returning Officer shall make all necessary arrangements for the conduct of any election held under this Act.

(2) The costs of every election shall be paid by the Board out of the Dairy Industry Levy Account.

(3) Every election under this Act shall be conducted by post and the voting papers when completed shall be posted to the Returning Officer.

(4) The Returning Officer shall compute the value of all votes received by him by attributing to each manufacturer who votes for a candidate in any ward one vote for the candidate for each kilogram of own-supply milk fat that, in the opinion of the Board, the manufacturer manufactured into dairy produce during the most recent complete season in premises situated within the ward.

(5) The candidate for election for any ward who receives the greatest number of votes, ascertained in accordance with the foregoing provisions of this Section, shall be deemed to be elected for that ward:

Provided that where an election is held for two members, the two candidates who each receive a greater number of votes than any other candidate shall be deemed to be elected.

(6) Except as expressly provided by this Act, every election under this Section shall be conducted in accordance with regulations made under this Act.

11. Repealed

12. Meetings of Board

(1) The first meeting of the Board shall be held on a day to be appointed in that behalf by the Minister.

(2) Subsequent meetings of the Board shall be held at such times and places as the Board from time to time appoints.

(3) The Chairman of the Board, or any three directors thereof, may at any time call a special meeting of the Board.

(4) At all meetings of the Board the quorum necessary for the transaction of business shall be seven directors of whom at least one shall be a director appointed under paragraph (a) of sub-section (2) of Section 3 of this Act.

(5) The Chairman shall preside at all meetings of the Board at which he is present.

(6) In the absence of the Chairman from any meeting of the Board a Deputy Chairman shall preside:

Provided that if there is more than one Deputy Chairman, the Board shall appoint one of the Deputy Chairmen to preside.

(7) All questions arising at any meeting of the Board shall be decided by a majority of the valid votes recorded thereon.

(8) At any meeting of the Board the Chairman or other person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(9) A resolution in writing signed, or assented to by letter or telegram, by all directors of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.

(10) Subject to the provisions of this Act and of any regulations thereunder, the Board may regulate its procedure in such manner as it thinks fit.

13. Committees

(1) The Board may from time to time appoint a committee or committees, consisting of two or more persons, to advise the Board on such matters concerning the dairy industry or the production or marketing of any dairy produce as referred to them by the Board.

(2) Every committee may, in addition, furnish to the Board reports on any matter concerning the dairy industry or the production or marketing of any dairy produce in respect of which the members of the committee have special knowledge or experience.

(3) Any person may be appointed to be a member of any committee, notwithstanding that he is not a director.

14. General functions of the Board

(1) The general functions of the Board shall be:

(a) repealed;

(b) to acquire and market such export produce as the Board may from time to time determine;

(c) to control the export of dairy produce other than dairy produce acquired and marketed by the Board;

(d) to promote and organize the orderly development of the dairy and bobby calf industries in New Zealand with a view to maintaining and improving the standard of quality of the stock or produce derived or development from those industries and expanding production of that stock or produce, and generally ensuring, as far as may be practicable, the adoption of measures and practices designed to promote greater efficiency in those industries, in furtherance of the interests and welfare of persons engaged therein;

(e) to organize and develop the orderly marketing of vells and bobby calves and dairy stock, and, with the approval of the Minister, to take measures to promote greater efficiency in the marketing of meat derived from bobby calves, and dairy stock;

(f) to exercise and perform such functions, powers, and duties in relation to the marketing of dairy produce in New Zealand as are conferred or imposed on it under this Act or otherwise howsoever.

(2) It shall also be a function of the Board to report to the Minister from time to time concerning trends and prospects for dairy produce in overseas markets and to consult with the Minister on the measures to be taken if any such trend, or any movement in costs or other trend or occurrence in New Zealand, is or is likely to be prejudicial to the economic stability of the dairy industry.

(3) The Board shall have all such further functions as are by this Act or otherwise conferred upon it.

15. Board to comply with general trade policy of Government

In the exercise of its functions and powers under this Act the Board shall comply with the general trade policy of the Government of New Zealand, and shall comply with any general or special directions given by the Minister pursuant to the policy of the Government in relation thereto.

PART II

Marketing of Dairy Produce

16. Dairy produce to which this Part of this Act applies

(1) Repealed

(2) Nothing in Part II of the Marketing Act, 1936, shall apply with respect to any export produce.

17. Powers of Board as to acquisition and marketing of dairy produce

(1) Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, the Board shall have full authority to make and carry out such arrangements as it thinks proper for any of the following purposes:

- (a) for the acquisition and marketing by the Board of export produce;
- (b) for the handling, pooling, transport, and storage of export produce;
- (c) for the consignment of export produce on such terms and in such quantities as it thinks fit;
- (d) for the insurance against loss of export produce;
- (e) for the establishment of a fund for the purpose of meeting any loss of or damage to export produce acquired by the Board or for the taking of such other steps as the Board thinks fit for that purpose;
- (f) for the further treatment, processing, or packing of export produce;
- (g) for furthering the sale of export produce overseas, or the export of dairy produce;
- (h) for prohibiting, restricting, and controlling the export of any export produce other than by the Board;
- (i) generally for all such matters as are necessary for the exercise of the functions and powers of the Board under this Part of this Act.

(1A) Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, the Board shall have full authority to make and carry out such arrangements as it thinks proper for

prohibiting, restricting, and controlling, the export otherwise than by the Board to any country specified in that behalf by the Governor-General by Order in Council of any compound or mixture (packed otherwise than for retail sale without further processing or packaging, and otherwise than in units of 2 kg. or less) that:

- (a) contains not less than 60 per cent by weight of dairy produce; and
- (b) in the opinion of the Board is used, or capable of being used, substantially in substitution for the dairy produce contained in it, or for any component of that dairy produce.

(2) Repealed.

18. Board to acquire export produce

(1) The Board shall inform the supplier of any export produce that it proposes to acquire pursuant to this Part of this Act, either by notice in writing delivered to him or by notice in the Gazette, of the time at which or the event upon the happening of which the ownership of the export produce will pass to the Board; and that export produce shall become the property of the Board at that time or, as the case may be, upon that event:

Provided that the said notice may also prescribe events upon the happening of which, after export produce has become the property of the Board thereunder, that export produce will become the property of the supplier again; and if any such event so happens, that export produce shall then become the property of the supplier, and any money paid to the supplier by the Board in respect thereof shall become a debt due to the Board by the supplier and may be deducted by the Board from any money thereafter payable to the supplier by the Board.

(2) The Board may include in any notice given pursuant to subsection (1) of this Section details of the manner in which the supplier of any export produce is to deal with it after it has become the property of the Board pursuant to that notice; and the supplier shall, after that export produce has become the property of the Board, deal with it accordingly.

(3) Where at any time after any export produce becomes that property of the Board under this Section it is found to be contaminated or to contain foreign matter to such an extent that it does not conform to the specifications prescribed in the Board's order for that produce, the Board may deduct from any amount payable by it to the supplier an amount equal to the difference between the price paid or payable by the Board for the affected export produce (plus all costs and expenses incurred by the Board in disposing of the export produce and in compensating the purchaser from the Board of the export produce) and the amount for which the Board disposed of it:

Provided that this subsection shall not apply to any export produce proved by the supplier to have become contaminated or to have acquired foreign matter after it became the property of the Board and without negligence on the part of the supplier.

(4) Whenever export produce has become the property of the Board in accordance with subsection (1) of this Section, the price thereof, as fixed in accordance with this Part of this Act, shall become payable, and, after deduction therefrom of any money payable to the Board by the supplier thereof, whether pursuant to Section 41 of this Act or otherwise, shall be paid to that supplier as soon as practicable after the passing of ownership thereof to the Board:

Provided that if the price payable for the said export produce has not been fixed at the time when it becomes payable as provided in this subsection, the Board may make advances on account of the amount payable, pending its ascertainment, and, if the amounts advanced exceed the amount ascertained to be payable, the amount of the excess shall be repayable forthwith to the Board, and may be deducted by the Board from any money payable to the supplier who received the advances.

(5) Any export produce that has become the property of the Board in accordance with this Section may be withheld from export if, in the opinion of the Board, it is required for consumption or use in New Zealand, or the Board may, if it thinks fit, sell any such export produce to any person who undertakes to export and market it in accordance with any agreement made with the Board.

Sections 19-25. Repealed

#### Payments to Manufacturers

##### 25A. Board to pay prices determined

The Board shall pay for the export produce it acquires the appropriate prices determined under Section 26C of this Act.

##### 26. Establishing values for components of milk

(1) During the first month of each season, the Board may establish for the season values (per kg.) for any components of milk it thinks fit.

(2) The Board shall not without the consent of the dairy industry establish a value for any component of milk other than milk fat or protein.

(3) Notwithstanding subsection (2) of this Section, if the Board does not establish any values under subsection (1) of this Section for a season during the first month of the season there shall be deemed to have been established for the season under that subsection, with effect from the commencement of the season, the values in force immediately before that commencement.

(4) If at any time during a season the Board is of the opinion that a value established for the season under this Section should be increased, it may, with effect on and after any day during the season for which it was established, disestablish the value and establish an increased value in its place.

(5) If, at any time during a season, the Board is of the opinion that:

(a) a value established for the season under this Section should be decreased; but

(b) the decrease should not have retroactive effect:

it may, with effect on and after any day not earlier than the day on which it does so, disestablish the value and establish a decreased value in its place.

(6) Subject to subsection (7) of this Section, if at any time during a season the Board is of the opinion that a value established for the season under this Section should be decreased in respect of any period before the day on which it does so, it may, in respect of the period concerned, disestablish the value and establish a decreased value in its place.

(7) The Board shall not, in respect of any period before the day on which it does so, disestablish a value and establish a decreased value in its place unless:

(a) the dairy industry has approved the Board's doing so; and

(b) the decreased value is not less than 90 per cent of the highest value for the component concerned previously in force on any day during the period.

(8) Where the Board establishes a value under this Section with effect on and after a day earlier than the day of its establishment, or with effect in respect of a period before the day of its establishment, it shall make appropriate consequential changes to the prices paid or to be paid for dairy produce it has acquired or acquires during the season concerned.

(9) In establishing values under this Section, the Board shall have regard to the following matters:

- (a) the desirability of maintaining the stability and efficiency of the dairy industry;
- (b) the amount that the dairy produce acquired by the Board is then realizing, and market prospects for the season concerned;
- (c) the present and prospective state of the Board's financial accounts and reserves;
- (d) any other matters the Board thinks relevant.

26A. Formulas for calculation of prices

- (1) Subject to subsection (2) of this Section during the first month of each season, the Board may establish formulas for the calculation of prices to be paid by it for export produce it acquires during the season.
- (2) The Board shall not without the approval of the dairy industry establish formulas for the calculation of prices to be paid for export produce it acquires during a season that differ from those established for the previous season.
- (3) If the Board does not establish any formulas under subsection (1) of this Section during the first month of a season, there shall be deemed to have been established under that subsection, in respect of the season, the formulas established for the previous season.
- (4) Without limiting the powers of the Board, the Board may establish formulas pursuant to this Section so as to achieve or tend to achieve any or all of the following results:
  - (a) different prices for different kinds of export produce;
  - (b) different prices for different grades or qualities of export produce;
  - (c) different prices for export produce contained in different packaging;
  - (d) different prices for export produce produced in different periods;
  - (e) different prices for quantities of export produce made in different degrees of conformity with any manufacturing programme or quota requirements of the Board;
  - (f) different prices for export produce from dairy herds different as to the extent to which they are, as the case may be, registered or tested as being free from

tuberculosis, brucellosis, or any other disease the Minister, by notice in the Gazette, specifies for the purposes of this Section.

26B. Repealed.

26C. Determining prices for export produce

As soon as is practicable after a new value has been established pursuant to Section 26 of this Act, the Board shall determine, according to the appropriate formulas, the gross prices to be paid for export produce it acquires during the period for which the new value applies.

26D. Realization of differential schemes

(1) The Board may from time to time establish schemes comprising:

(a) a trigger weight of any specified dairy product or dairy products, or of any specified component or components of milk; and

(b) a system of ascertaining:

(i) whether the Board is to make or recover payments; and

(ii) the manufacturers to or from whom the Board may make or recover payments in respect of their own supply milk fat for the season concerned; and

(iii) the amounts of those payments:

if during any season for which the scheme is in force there is in the opinion of the Board manufactured in New Zealand more than the trigger weight of the product, products, component, or components, specified.

(2) Where such a scheme provides for the Board to recover payments from manufacturers, the Board may recover from any manufacturer ascertained under it, as a debt due to the Board or by deduction from any amount payable to the manufacturer by the Board, all or any part of any amount ascertained under it in respect of the manufacturer.

(3) Where such a scheme provides for the Board to make payments to manufacturers, the Board shall pay any manufacturer ascertained under it the amount ascertained under it in respect of the manufacturer.

(4) Such a scheme is in force only for the season containing the first day of August next following its establishment.

(5) The Board shall not establish such a scheme without the approval of the dairy industry.

27. Adjustment where local price for dairy produce not equivalent to export price

(1) In this Section, unless the context otherwise requires:

"Acquisition price" in relation to any dairy produce, means the price at the time when, in the opinion of the Board, the produce was manufactured, payable by the Board for export produce of that class acquired by the Board;

"Approved class of dairy produce" subject to subsection (11) of this Section, means dairy produce of a kind or description for the time being approved by the Board (whether before, on, or after the commencement of the Dairy Board Amendment Act, 1988) for the purposes of this Section);

"Notional price" means a notional price fixed under this Section; and, in relation to any approved class of dairy produce, means a notional price for the time being fixed in respect of dairy produce of that class.

(2) The Board may at any time fix, in respect of any approved class of dairy produce, a notional price, which shall take effect from a date (not being earlier than the date on which it is fixed) the Board specifies.

(3) The Board may at any time amend any notional price for the time being in force; and any amendment shall take effect on a date (not being earlier than the date on which the original notional price took effect) that is either:

- (a) a date specified in that behalf by the Board at the time of making the amendment; or
- (b) a date upon which conditions specified by the Board at the time of making the amendment have been fulfilled.

(4) Where the Board amends any notional price, it shall specify a period of such number of whole months as it thinks fit from the date on which the amendment takes effect during which subsections (6) and (8) of this Section shall apply in respect of the approved class of dairy produce concerned.

(5) Subject to subsection (6) of this Section, the Board may pay to every manufacturer that satisfies the Board that, during any month when a notional price was in force in respect of an approved class of dairy produce, it disposed of any dairy produce of that class manufactured by it otherwise than to the Board, the amount (if any) by which the value of the produce calculated on the basis of its acquisition price exceeded its value calculated on the basis of the notional price.

(6) Where, in the opinion of the Board, any dairy produce is disposed of otherwise than to the Board during a month that forms part of a period to which this subsection applies, the amount (if any) payable under subsection (5) of this Section to the manufacturer that manufactured it shall be the sum of:

- (a) the amount (if any) by which the value of the produce calculated on the basis of its acquisition price exceeded the higher of the following amounts:
  - (i) the value of the produce calculated on the basis of the notional price for dairy produce of that class that came into force at the commencement of the period;
  - (ii) the value of the produce calculated on the basis of the notional price for dairy produce of that class that was in force immediately before that commencement; and
- (b) such sum as the board thinks fit, being not less than the product of a quantity of dairy produce that bears the same proportion to the total quantity of dairy produce of that class manufactured by the manufacturer that was (in the opinion of the Board) disposed of otherwise than to the Board, in the twelve months before the commencement of the period, as the period bears to twelve months, and the lower of the following:
  - (i) the difference between the prices specified in sub-paragraphs (i) and (ii) of paragraph (a) of this subsection;
  - (ii) the amount (if any) by which the lower of those prices is less than the acquisition price of the produce.

(7) Subject to subsection (8) of this Section, the Board may recover from every manufacturer, that, in the opinion of the Board, during any month when a notional price was in force in respect of an approved class of dairy produce, disposed of any dairy produce of that class manufactured by it otherwise than to the Board, the amount (if any) by which the value of the produce calculated on the basis of the notional price exceeded the value of the produce calculated on the basis of its acquisition price, by:

- (a) directing the manufacturer to pay the amount to the Board; or
- (b) deducing the amount from any money payable by the Board to the manufacturer; or
- (c) so directing as to part of that amount and so deducting the residue.

(8) Where, in the opinion of the Board, any dairy produce is disposed of otherwise than to the Board during any month that forms part of a period to which this subsection applies, the amount (if any) recoverable under subsection (7) of this Section from the manufacturer that manufactured it shall be the sum of:

- (a) the amount (if any) by which the value of the produce calculated on the basis of its acquisition price was less than the lower of the following amounts:
  - (i) the value of the produce calculated on the basis of the notional price for dairy produce of that class that came into force on the commencement of the period; and
  - (ii) the value of the produce calculated on the basis of the notional price for dairy produce of that class that was in force immediately before that commencement; and
- (b) such sum as the Board thinks fit, being not more than the product of a quantity of dairy produce that bears the same proportion to the total quantity of dairy produce of that class manufactured by that manufacturer that was (in the opinion of the Board) disposed of otherwise than to the Board in the twelve months before the commencement of the period, as the period bears to twelve months, and the lower of the following:
  - (i) the difference between the prices specified in sub-paragraphs (i) and (ii) of paragraph (a) of this subsection;
  - (ii) the amount (if any) by which the higher of those prices is greater than the acquisition price of the dairy produce.

(9) As soon as is practicable after the end of every season the Board shall, as the case requires, pay to or recover as aforesaid from each New Zealand manufacturer such amounts as, in the opinion of the Board are necessary to make the total amounts under this Section paid to the manufacturer by the Board or, as the case may require, recovered from the manufacturer by the Board, in respect of dairy produce manufactured by it, and disposed of otherwise than to the Board during that season, equal to the amounts that would have been so paid or recovered if all amounts during that season payable under this Section had been calculated on the basis of the appropriate acquisition prices adjusted to take account of any relevant payments calculated in respect of that season under Section 28 of this Act.

(10) As soon as is practicable after 31 May in each year, the Board shall, as the case may require, pay to or recover as aforesaid from each New Zealand manufacturer such amounts as, in the opinion of the Board, are necessary to make the total amounts under this Section paid

to the manufacturer by the Board or, as the case may require, recovered from the manufacturer by the Board in respect of dairy produce manufactured by it, and disposed of otherwise than to the Board during the previous twelve months equal to the amounts that would have been so paid or recovered if all amounts payable in respect of dairy produce of the class concerned under subsection (6)(b) or subsection (8)(b) of this Section during any period specified under subsection (4) of this Section occurring during that twelve months had been calculated on the basis of the quantity of dairy produce of that class manufactured by the manufacturer disposed of otherwise than to the Board during each month forming part of the period.

(11) The Board shall not approve any kind or description of dairy produce without the approval of the dairy industry for the purposes of this Section.

28. Annual trading surpluses

(1) As soon as is practicable after the end of every season, the Board shall assess its trading balance for the season.

(2) If the balance shows a surplus, the Board may distribute all or any part of it to manufacturers of dairy produce.

(3) In determining whether or not to distribute to manufacturers of dairy produce any part of a surplus, the Board shall take into account:

(a) the desirability of the Board's having financial reserves adequate for the performance and exercise of its functions and powers;

(b) the profitability and economic position of the dairy-farming industry at the time.

(4) Any surplus the Board decides to distribute shall be distributed to manufacturers from whom the Board acquired dairy produce (or, as the case requires, the components concerned, or dairy produce from which the products concerned were manufactured) during the season to which the surplus relates, on any basis the Board thinks fair and equitable.

Section 29. Repealed

30. Board may acquire shares in certain companies

(1) Subject to subsection (1A) of this Section, the Board may from time to time acquire or subscribe for shares or stock in any company that may lawfully carry on the business of producing, processing, marketing, distributing, or promoting, the sale of dairy produce.

(1A) The Board shall not acquire or subscribe for shares or stock in any company registered under the Co-operative Dairy Companies Act, 1949, without the consent of the dairy industry.

(1B) Except as provided in subsection (1) of this Section, the Board shall not subscribe for or otherwise acquire shares in any company.

(2) The Board may exercise all rights and powers as the holders of shares and stock so acquired or subscribed for by it and may advance to or deposit with a company in which shares or stock have been acquired or subscribed for by the Board as aforesaid money required by the company for carrying on its business.

(3) The Board may give such guarantee, indemnity, or security as it thinks fit to or for the benefit of any company in which it has acquired or subscribed for shares or stock under this Section.

(4) Any shares or stock so required or subscribed for by the Board may be held by the Board or may be held on behalf of the Board by any member of the Board:

Provided that no member or officer of the Board who holds any shares or stock on behalf of the Board shall vote at any meeting of any such company otherwise than in accordance with such directions as may be given by the Board.

(5) Any member of the Board (whether the Chairman or not) holding office as director of a company in which shares or stock have been acquired or subscribed for by the Board as aforesaid may:

(a) receive from the company all the remuneration to which he may be entitled as holder of the office;

(b) retain so much of that remuneration (if any) as the Board may from time to time approve.

(6) Repealed

(7) The Board shall in each year report to the Minister as to the operations of any such company for its then last ended financial year. No report under this subsection shall be laid before Parliament.

31. Acquisition and marketing by Board of dairy produce manufactured overseas

Before acquiring or marketing dairy produce manufactured overseas, the Board shall first consult the Minister.

Sections 32-38. Repealed

PART III

Further Powers of the Board with Respect to the Dairy Industry

39. Development of dairy industry

(1) Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, it is hereby declared that in the exercise of its functions the Board may from time to time:

- (a) devise, promote, and carry out, by such means as commend themselves to the Board, measures for the improvement of dairy stock, or produce derived from dairy stock, including the testing for production or quality of dairy stock and the development of artificial breeding of dairy stock;
- (b) promote, by way of subsidy, or otherwise, the carrying out of any research or experimental work undertaken in New Zealand or elsewhere with a view to improving the quality of dairy stock, or the produce derived from dairy stock, or to developing the classes of dairy stock or the classes of produce derived from dairy stock available for production in New Zealand;
- (c) promote and organize, by such means as the Board thinks fit, the circulation of information in relation to the dairy or bobby calf industries for the benefit and guidance of persons engaged in any of those industries;
- (d) promote the sale and consumption of products derived from dairy stock whether by advertising or giving publicity to the merits and quality thereof, or otherwise howsoever;
- (e) act in combination or association with any body of persons, whether incorporated or not and whether in New Zealand or elsewhere, that may be engaged, concerned, or interested in the production, marketing, or distribution of any of the products of the agricultural, pastoral, or horticultural industries, and share the costs and expenses involved in any such combination or association, or subscribe for or otherwise acquire shares or other interests in any body corporate or other body established for the purpose of giving effect to any such combination or association, in such manner as may be mutually agreed upon;
- (ea) act in combination or association with the New Zealand Meat Producers Board and the New Zealand Wool Board, and the New Zealand Wool Marketing Corporation, or with any of those bodies, in carrying out or assisting any project that may be considered by the Board directly or indirectly to benefit any primary industry, on terms of sharing the costs and

expenses involved in that combination or association in such proportions or in such manner as may be mutually agreed upon;

- (f) undertake or carry out, with the prior approval of the Minister, any other act, matter, or thing in relation to the dairy or bobby calf industries which the Minister considers to be necessary or desirable in the interests of persons engaged in any of those industries.

(2) The Board shall have all such other powers and authorities as are necessary, conducive, or incidental to the performance of its functions and powers under this Part of this Act.

40. Bobby calves, containers, and zoning of supplies of milk or cream

(1) The Board, in accordance with regulations under this Act, shall have authority to:

- (a) regulate and control the marketing of bobby calves and vells derived from bobby calves;
- (b) regulate and control the supply of containers to the owners or occupiers of dairy factories;
- (c) promote and administer schemes providing for a system of zoning in respect of the supply of milk or cream to dairy factories or other establishments used for the receipt or storage of milk or cream.

(2) Without limiting the general powers conferred by subsection (1) of this Section, it is hereby declared that regulations may be made under this Act providing for:

- (a) the establishment, constitution, and functions of committees to supervise and control the distribution and marketing of bobby calves in prescribed areas;
- (b) the purchase and disposal by the Board of vells derived from bobby calves at prices determined by the Board in accordance with the regulations, and for the arrangements to be made in respect of money to be provided or received in respect of any such purchase or disposal;
- (c) the prevention of cruelty to bobby calves;
- (d) the purchase by the Board of containers and for the exclusive right of the Board to supply containers to owners or occupiers of dairy factories;
- (e) the licensing of manufacturers of containers and prescribing the conditions subject to which licences may be granted, refused, renewed or revoked;

- (f) the fixing of prices in respect of containers purchased or supplied by the Board;
- (g) the definition and assignment of areas from which milk or cream may be delivered to or collected by owners or occupiers of specified dairy factories or other establishments and of routes along which any such delivery or collection shall take place;
- (h) the resumption by any company owning or occupying a dairy factory or other establishment of shares held in the company by a person formerly supplying milk or cream to the factory or other establishment and prevented by or pursuant to the regulations from continuing any such supply;
- (i) any necessary assignments or adjustments of or in respect of orders given by suppliers of milk or cream to dairy factories or other establishments on money due from the owners or occupiers of any such factories or establishments in cases where the supply of milk or cream by any person who has given any such order is, pursuant to a zoning scheme established under the regulations, diverted from one dairy factory or establishment to another during the currency of the order;
- (j) the assessment and payment of compensation for loss incurred to the owner of a dairy factory or other establishment prejudicially affected by the operation of regulations under this Act providing for a system of zoning in respect of the supply of milk or cream to that factory or establishment.

40A. Repealed

41. Levy on dairy produce

(1) For the purpose of providing funds to enable the Board to carry out the functions specified in paragraphs (d) and (e) of subsection (1) of Section 14 of this Act and to exercise the powers conferred on the Board by this Part of this Act, there shall be paid to the Board, by way of a general levy on dairy produce manufactured, or intended to be manufactured, for sale, such charges as may from time to time be fixed by the Board, not exceeding in any case the maximum charges that may be prescribed by regulations under this Act.

(2) Differential charges may be prescribed in respect of dairy produce exported from New Zealand and dairy produce intended for consumption in New Zealand.

Sections 42-44. Repealed

45. Superannuation for employees of dairy companies

(1) The Board is hereby authorized to promote, establish, maintain, and vary any scheme or schemes for the purpose of providing payment, by the Board or the National Provident Fund Board or any other corporate body, of superannuation or retiring allowances for employees, or any class or classes of employees, of companies owning or occupying dairy factories and for the time being liable for the payment of the special levy imposed under this Section or for any other class or classes of employees.

(1A) No money payable to any person pursuant to any scheme under subsection (1) of this Section shall be in any way assigned or charged or pass to any other person by operation of law; nor shall any money payable pursuant to the scheme on the death of a contributor be assets for the payments of his debts and liabilities.

(2) As a contribution by companies towards any such scheme, there shall be paid to the Board by every company not exempt as hereinafter provided from the provisions of this Section an amount proportionate to the contributions of the members of the scheme employed by each company and a further amount, by way of a special levy on dairy produce manufactured or intended for manufacture for sale by the company, each such amount to be fixed from time to time by the Board at rates not exceeding in any case the maximum charge prescribed by regulations under this Act.

(3) Any such charges may be prescribed pursuant to this Section in respect of all dairy produce or in respect of specified kinds of dairy produce only, and differential charges may be prescribed in respect of different kinds of dairy produce.

(4) The proceeds of any special levy imposed under subsection (2) of this Section, and all other money payable to the Board under any such scheme, shall be paid into a separate account of the Board to be called the Dairy Industry Superannuation Account; and the Board may make such payments out of that account as are necessary for the purpose of the scheme.

(5) The Board may exempt any company from the operation of this Section if, on or before the commencement of this Act, the company has established and maintains a scheme which in the opinion of the Board is a satisfactory scheme for the purpose of providing superannuation or retiring allowances for employees of the company.

(6) The Board may, in its discretion, exempt from the operation of this Section any company whose principal function is not the manufacture of dairy produce in respect of which a levy is payable under this Section.

(7) Any exemption under this Section shall be given by the Board by notice in writing addressed to the company concerned.

(8) Notwithstanding Section 46 of this Act, any money received by the Board pursuant to this Section, and any money and investments held in the Dairy Industry Superannuation Account, may from time to time be invested or re-invested by the Board in any investment authorized by regulations made under the Superannuation Schemes Act, 1976, for trustees of approved schemes for employees within the meaning of that Act.

Section 46. Repealed

PART IV.

Miscellaneous Provisions

47. Officers of Board

(1) Repealed

(2) Repealed

(3) All persons who at the commencement of this Act are officers or servants of the Dairy Board or the Commission shall be deemed to become officers or servants of the Board, and for the purposes of any fund or scheme established for the purpose of providing superannuation or retiring allowances the service of any such persons as officers or servants of the Dairy Board or the Commission, as the case may be, shall be deemed to have been service as officers or servants of the Board.

48. Performance of functions by Ministry of Agriculture and Fisheries or other agent on behalf of the Board

The Board may from time to time, with the consent of the Minister, arrange that any of its duties or functions under this Act may be performed on its behalf, whether in New Zealand or elsewhere, by the Ministry of Agriculture and Fisheries or by some other agent appointed for the purpose, and the Ministry of Agriculture and Fisheries is hereby authorized to act as agent for the Board.

48A. Delegation of powers of Board

(1) The Board may, in respect of any particular matter or class of matter, or in respect of any particular area within or outside New Zealand, by writing under its seal delegate to any director or officer of the Board, or to the holder for the time being of any specified office under the Board, or to any other person whomsoever, any of its powers under this Act (including a power to execute deeds on behalf of the Board, but not including this power or delegation), so that the delegated powers may be exercised by him in respect of the matter or class of matter or area, specified in the instrument of delegation.

(2) Subject to any general or special directions or conditions given or imposed by the Board, a person to whom any powers are so delegated may exercise them in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this Section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Every delegation under this Section shall be revocable at will; and no delegation shall prevent the exercise of any power by the Board.

49. Contracts of Board

(1) Subject to Section 48A of the Act, any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the common seal of the Board.

(2) Any contract that, if made between private persons, must be signed by the parties to be charged therewith shall, if made by the Board, be either under the common seal of the Board, or signed by a person acting on behalf of and under the express or implied authority of the Board.

(3) Any contract that, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any person acting on behalf of and under the express or implied authority of the Board.

(4) The Board may, by writing under its common seal, empower any person, either generally or in respect of any specified matter, to execute on its behalf in any place in or beyond New Zealand, instruments under or for the purposes of this Act. An instrument executed by such an attorney on behalf of the Board shall bind the Board and if executed as a deed have the same effect as if it were under the common seal of the Board.

(5) Notwithstanding anything to the contrary in the foregoing provisions of this Section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in manner provided by this Section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

50. Unauthorized expenditure

(1) The Board may, for purposes not authorized by this Act or by any other Act, in any financial year expend any sum or sums not amounting in the whole to more than \$NZ 1,000.

Sections 51-54. Repealed

55. Board to have powers of Commission of Inquiry

For the purpose of conducting any inquiry or desirable for the carrying out of any of its functions under this Act and for the purpose of obtaining any information that may be deemed necessary or of value to enable the Board to fulfil its functions, the Board shall be deemed to be a Commission appointed under the Commissions of Inquiry Act, 1908, and, subject to the provisions of this Act and of any regulations under this Act, all the provisions of that Act shall apply accordingly.

Section 56. Repealed

57. Exemption from taxation

(1) The Board shall be exempt from land tax and, in respect of all income derived by the Board from the exercise of its functions and powers under Part II of this Act, shall be exempt from income tax.

(2) The Board shall be exempt from income tax on all income derived by the Board from the purchase and disposal by the Board of vells under regulations made pursuant to paragraph (a) of subsection (1) or paragraph (b) of subsection (2) of Section 40 of this Act.

(3) For the purpose of subsection (2) of this Section, the term "income" includes interest earned on any money standing to the credit of any account established by the Board for the purpose of recording transactions relating to vells and invested from time to time by the Board.

Sections 58-65. Repealed

66. Board to prepare financial statements

As soon as is practicable after the thirty-first day of May in each year, the Board shall prepare the following statements:

- (a) statements of the Board's financial position at the end of the season ending with that day;
- (b) statements of all changes in the Board's financial position during the season;
- (c) statements of the Board's revenue and expenditure during the season;
- (d) all other statements necessary to show fully the Board's financial position, and the financial results of its proceedings and operations, during the season.

67. Audit of accounts and financial statements

(1) The Audit Office shall audit the accounts of the Board, and the financial statements referred to in Section 66 of this Act.

(2) For the purposes of subsection (1) of this Section, the Audit Office shall have and may exercise and perform:

- (a) all the functions, duties, and powers of an auditor under the Companies Act, 1955; and
- (b) all the powers it has under the Public Finance Act, 1977, in respect of public money and public stores, and the audit of local authorities' accounts.

67A. Annual report and statements to be laid before House of Representatives

(1) As soon as is practicable after the statements referred to in Section 66 of this Act have been prepared in respect of any season and audited, the Board shall prepare, give to the Minister, and take all reasonable steps to ensure that there are given to all manufacturers, a report of its proceedings and operations for the season together with a copy of the statements and the report of the Audit Office on them.

(2) As soon as is practicable after receiving copies of any such report, statements, and report of the Audit Office, the Minister shall lay copies before the House of Representatives.

68. Offences

(1) Every person commits an offence against this Act who:

- (a) without lawful excuse acts in contravention of or fails to comply in any respect with any provision of Part II of this Act or any regulations under this Act;
- (b) with intent to deceive, makes any false or misleading statement or any material omission in any communication with or application or return to the Board (whether in writing or otherwise) for the purposes of Part II of this Act or any regulations made under this Act.

(2) Every person who commits or attempts to commit, or counsels, procures, aids, abets, or incites any other person to commit any offence against this Act, or against any regulations made under this Act, shall, where no other penalty is specifically prescribed, be liable on summary conviction to a fine not exceeding \$NZ 400, in the case of an individual, and in the case of a company or other corporation, to a fine not exceeding \$NZ 2,000.

(3) Any prosecution for any offence against this Act, or against any regulations as aforesaid, may be instituted at any time within one year after the commission of the offence.

69. Regulations

(1) The Governor-General may from time to time, by Order in Council, in accordance with recommendations made by the Board to the Minister, make regulations in regard to any matter or for any purpose for which regulations are prescribed or contemplated by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power conferred by subsection (1) of this Section, it is hereby declared that regulations may be made under this Section for all or any of the following purposes:

- (a) prescribing the maximum amount of the general levies that may be imposed on dairy produce intended for consumption in New Zealand and on dairy produce intended to be exported from New Zealand for the purposes of Section 41 of this Act, and the methods to be adopted in the collection of any such levies;
- (b) prescribing the maximum amount of the special levies that may be imposed on dairy produce manufactured for sale for the purposes of Section 45 of this Act, and the methods to be adopted in the collection of any such levies;
- (c) regulating and controlling the testing for production or quality of dairy cattle;
- (d) regulating the amounts, grades, or qualities of butter or cheese which may be manufactured for consumption in New Zealand;
- (e) regulating the distribution and sale of butter or cheese in New Zealand, and authorizing the Board to acquire for resale in New Zealand, or to sell, any butter or cheese;
- (f) licensing persons engaged in the business of distribution or selling (otherwise than by retail) butter or cheese intended for consumption in New Zealand;
- (g) obtaining any information or particulars that may be required for the effective performance of the functions of the Board under this Act;
- (h) prescribing offences against the regulations.

(3) On the coming into force of any regulations made for the purposes of paragraph (e) of subsection (2) of this Section, the provisions of Section 21 of the Marketing Act, 1936, shall, to the extent to which they are contrary to the regulations, cease to apply with respect to butter and cheese to which the regulations apply.

(4) Regulations made under this Section may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as may be specified in the regulations.

(5) All regulations made under this Section shall be laid before Parliament.

Sections 70-72. Repealed

SCHEDULES

Section 3(2)(b)

First Schedule: Names and Boundaries of Wards

Name of Ward	Definition of boundaries
Northern Ward	All that portion of the North Auckland Land District north of the southern boundary of the area comprising the cities of Takapuna and Waitemata
South Auckland Ward	All that portion in the North Auckland Land District not included in the Northern Ward, the whole of the Auckland Land District (with the exception of the Counties of Tauranga and Whakatane and that part of the County of Waitomo lying within 16 km. from the right bank of the mouth of the Mokau River) and the whole of the Counties Ohura and Kaitieke
Eastern Ward	The whole of the Gisborne Land District, that part of the County of Wairoa which does not lie within the Gisborne Land District, and the Counties of Tauranga and Whakatane
Wellington Ward	The whole of the Wellington Land District (with the exception of the County of Kaitieke, the Chatham Islands, and that part of the said district included in the Taranaki Ward), together with the whole of the Hawkes's Bay Land District (with the exception of that part of the County of Wairoa included in that district), the Marlborough Land District, and the Nelson Land District (with the exception of the Counties of Buller and Inangahua)
Southern Ward	That portion of the South Island of New Zealand which is not included in the Wellington Ward, together with Steward Island and the Chatham Islands

Second Schedule: Names and Boundaries of Wards

Name of Ward	Definition of boundaries
Taranaki Ward	The whole of the Taranaki Land District with the exception of the County of Ohura, together with that portion of the County of Waitomo not included in the South Auckland Ward, and together with that portion of the Wellington Land District lying west of the Wanganui River from its mouth to its junction with the boundary of the Taranaki Land District

2. The Dairy Board Amendment Act, 1965

The Dairy Board Amendment Act, 1965, provides the following additional Section which is not cross-referenced to the Dairy Board Act, 1961:

10. Change of name of Board

(1) The principal Act may hereafter be cited as the Dairy Board Act, 1961.

(2) The Dairy Production and Marketing Board Amendment Act, 1962, the Dairy Production and Marketing Board Amendment Act, 1963, and the Dairy Production and Marketing Board Amendment Act, 1965, may hereafter be cited as the Dairy Board Amendment Act, 1962, the Dairy Board Amendment Act, 1963, and the Dairy Board Amendment Act, 1965, as the case may require.

(3) The name of the Board established under the principal Act is hereby changed and that Board shall hereafter be called the New Zealand Dairy Board.

(4) The change of name shall not affect any rights, powers, authorities, or obligations of the Board, or render defective any legal proceedings by or against the Board, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

(5) Notwithstanding the change of its name, the Board shall be and continue to be the same body corporate as that which was constituted by Section 3 of the principal Act.

(6) (a) This paragraph substituted a new definition of the term "Board" in Section 2 of the principal Act.

(b) This paragraph amended Section 3(1) of the principal Act.

(7) All references to the New Zealand Dairy Production and Marketing Board in any Act, regulation, order, or other enactment or in any agreement, deed, instrument, application, notice, or other document whatsoever shall, unless the context otherwise requires, be read as references to the New Zealand Dairy Board.

(8) This Section shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

As to subsection (8), this Section came into force on 7 July 1965; see the Dairy Board Order, 1966 (S.R. 1966/115).

3. The Dairy Board Amendment Act, 1969

The Dairy Board Amendment Act, 1969, provides the following additional Section which is not cross-referenced to the Dairy Board Act, 1961:

2. (2) The Board shall be deemed always to have been exempt from income tax on all income derived by the Board before the thirty-first day of May 1969 from the purchase and disposal by the Board of vells under regulations made pursuant to paragraph (a) of subsection (1) or paragraph (b) of subsection (2) of Section 40 of the principal Act, but that income shall not include interest earned as described in subsection (3) of Section 57 of the principal Act.

4. The Dairy Board Amendment Act, 1988

The Dairy Board Amendment Act, 1988 (as amended by Section 4 of the Finance Act [No. 2], 1988) provides two additional sections not cross-referenced to the Dairy Board Act, 1961. These are as follows:

13. Assets of Board

It is hereby acknowledged and declared that the Board's assets belong ultimately to manufacturers, and are for the time being held and administered for the benefit of the New Zealand dairy industry.

14. Certain directors to continue in office

Notwithstanding Section 2 of this Act, every person who, immediately before the commencement of this Act, was a director elected for the Northern Ward shall continue to be a director until the expiration of the term for which the director was elected, or until the director earlier dies, resigns or is removed from office.