

DAIRY PRODUCTS MARKETING.

No. 38 of 1957.

AN ACT to provide for the regulation and control
of the sale of certain dairy products.

[1 November 1957.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title and commencement.

1—(1) This Act may be cited as the *Dairy Products Marketing Act 1957*.

(2) This Act shall commence on a date to be fixed by proclamation.

Interpretation.

Cf. 24 Geo. V,
No. 56 (Tas.),
s. 2.

No. 17 of 1933
(N.S.W.), s.
2, No. 4204
(Vict.), s. 2.
No. 34 of 1934
(W.A.), s. 7.

2—(1) In this Act, unless the contrary intention appears—

“Board” means the Dairy Products Marketing Board constituted under this Act;

“chairman” means the person who is appointed as the chairman of the Board;

“cold store” means a place that is used for the purpose of keeping dairy products in cold storage;

“dairy products” means butter and cheese, and includes butter or cheese, or both, that has been milled, renovated, or processed, and also includes such other products of milk, if any, as the Minister may, by order, declare to be dairy products for the purposes of this Act;

“dealer” means a person who purchases dairy products for the purpose of re-sale by wholesale;

“factory” means premises where dairy products are manufactured for sale;

“manufacturer” means a person who manufactures any dairy products for sale, but does not include—

(a) a person who manufactures for sale, either by wholesale or retail, less than forty pounds of butter or cheese in any one month;

(b) a processor; or

(c) a tinner;

“processor” means a person who carries on the business of comminuting, pasteurizing, re-emulsifying, and packing cheeses that have been purchased by him from a manufacturer, produce agent, or dealer;

“produce agent” means a person who, on behalf of other persons, sells dairy products on commission or for other remuneration;

“producer” means a person who, from his own cows or from leased cows or from other cows on any land occupied by him, produces milk intended for use for the manufacture of dairy products for sale;

“quota” means the proportion of dairy products manufactured by a manufacturer within this State that he is, for the time being, permitted to sell in the course of his intrastate trade or commerce in this State;

“sell” includes barter, exchange, and transfer;

“tinner” means a person who carries on the business of tinning or repacking dairy products that have been purchased by him from a manufacturer, produce agent, or dealer.

(2) For the purposes of this Act, a person who has registered a brand under the provisions of section fourteen of the *Dairy Produce Act 1932*, in respect of whose brand the certificate of registration is still in force, shall be deemed to be and to have acted as a manufacturer; and, in any proceedings in respect of a contravention of this Act, a certificate under the hand of the permanent head of the Department of Agriculture that the defendant has so registered a brand and that the certificate of registration is still in force is evidence of those facts.

3—(1) There shall be a board, to be known as the Dairy Products Marketing Board.

(2) The Board shall consist of four members appointed by the Governor.

(3) Of the members of the Board—

(a) two shall be persons nominated by the Minister, of whom—

(i) one shall be appointed as the chairman of the Board; and

(ii) one shall be appointed as representing the consumers of dairy products;

(b) one shall be a person (not being a producer) who is nominated, as prescribed, by the owners or boards of directors of butter and cheese factories in this State (being factories in which not less than fifty-two tons of dairy products are manufactured in each year); and

(c) one shall be a produce agent who, in the course of his business, sells not less than thirty tons of butter in each year.

Dairy Products Marketing Board.

Tas., ss. 3, 5

(1).

N.S.W., s. 3.

Vict., s. 3.

W.A., ss. 8,

10.

(4) If a nomination required by this section is not made within the prescribed time, the Governor may appoint a person to represent the relevant organization without any nomination.

(5) The Board is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name and of acquiring, holding, and disposing of real property and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Tenure of office, and remuneration, of members of the Board.

Tas., s. 4.
N.S.W., s. 3
(4).
Vict., s. 3
(5).
W.A., s. 9.

Proceedings of the Board.

Tas., s. 5 (2),
(3).
Vict., s. 3 (8).
W.A., s. 11.

4—(1) The chairman shall be appointed to hold office during the Governor's pleasure, and the remaining members shall be appointed to hold office for the term of three years.

(2) The members of the Board are entitled to be paid such fees and allowances, if any, as the Governor may determine.

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

(2) If the chairman is not present at a meeting of the Board the members present thereat shall choose one of their number to preside at that meeting.

(3) The chairman or other member who presides at a meeting of the Board has a deliberative vote only.

(4) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting on the question, and if the voting on a question is equal that question passes in the negative.

(5) Three members constitute a quorum of the Board, and the Board may function, notwithstanding a vacancy in its membership, so long as a quorum remains.

(6) No act or proceeding of the Board is invalidated by reason of any defect or irregularity in the constitution of the Board, or in the nomination or appointment of a member of the Board, or by reason of there being a vacancy in the number of members at the time of the act or proceeding.

(7) Subject to this section, the Board may regulate its own procedure.

Officers of the Board.

Tas., s. 6.
N.S.W., s. 4.
Vict., s. 4.
W.A., s. 17.

6 For the purposes of this Act, the Board may appoint a secretary, and may appoint, employ, and authorize such other officers, servants, and agents as may be necessary to assist the Board in carrying out its powers, functions, and duties under this Act.

Estimate of expenditure.

Vict., s. 5 (1),
(2).

7—(1) The Board shall prepare and submit to the Minister, not later than the thirty-first day of May in each year, an estimate of the probable expenditure to be incurred by the Board in the administration of this Act and the exercise and performance of its powers, functions, and duties under this Act during the financial year then next ensuing.

(2) The estimate referred to in subsection (1) of this section shall not exceed a limit fixed by the Minister, and has no effect until approved by the Governor.

8—(1) Towards the expenditure estimated as provided in section seven, there shall be paid to the Board by each manufacturer a contribution calculated as prescribed.

Contributions towards Board's expenditure.
Tas., s. 7.
N.S.W., s. 5.
Vict., s. 5 (2), (3), (4), (5).
W.A., s. 29.

(2) Contributions under this section are payable at such times and in such manner as may be prescribed.

(3) The regulations may prescribe different bases on which contributions under this section in respect of different grades or classes of dairy products shall be paid.

(4) If a contribution that is payable under this section, or any part or instalment thereof, is unpaid, the Board may recover the amount thereof by action in a court of competent jurisdiction.

9—(1) Subject to subsection (2) of this section, the Minister, after consultation with the Board, may determine a quota for the purposes of this Act.

Determination and notification of quota.
Tas., s. 8.
N.S.W., s. 6.
Vict., s. 6.
W.A., s. 34.

(2) The Minister shall not determine a quota for the purposes of this Act unless he is satisfied that the available supplies of dairy products and the arrangements for the distribution thereof are sufficient to ensure that a satisfactory supply of dairy products at reasonable prices will be available to consumers in this State.

(3) A quota shall be determined for a period to be specified in the determination.

(4) A quota takes effect on and after the date specified in the Minister's determination, and continues in force until the expiration of the period specified in the determination or until another quota is subsequently determined.

(5) A quota shall be notified by the Minister by public notice in such newspapers as the Minister may think fit and in the *Gazette*.

(6) The production of the *Gazette* containing a notification of the determination of a quota is sufficient evidence that the quota was validly determined.

(7) A determination or notification under this section is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

10—(1) No manufacturer shall, in the course of his intra-state trade or commerce within this State, during a period for which a quota is in force, sell, in excess of that quota, any dairy products manufactured by him during that period or any preceding period.

Application of quota.
Tas., s. 9.
N.S.W., s. 7.
Vict., s. 8.
W.A., s. 35.

Penalty: Five hundred pounds.

(2) Subsection (1) of this section does not apply to or in relation to the sale of butter or cheese by a manufacturer who,

during a period for which a quota is in force, does not sell, in the aggregate, more than forty pounds by weight of butter or cheese.

(3) In any proceedings in respect of a contravention of subsection (1) of this section, the allegations set forth in the complaint shall be deemed to be proved in the absence of proof by the defendant to the contrary.

(4) No person shall be convicted under this section if he proves to the satisfaction of the court before which he is charged that he has made in respect of the matter in relation to which he is so charged, a payment to a prescribed body, the amount of which has been determined by that body.

(5) In this section, "prescribed body" means a body in respect of which an order-in-council under section eleven is in force.

Prescribed
body for the
purposes of
section 10.
Tas., s. 10.

11 If a body (whether incorporated or unincorporated) is registered in this State and has a constitution and objects approved by the Governor, the Governor may, by order-in-council, declare that body, by a name to be specified in the order-in-council, to be a prescribed body for the purposes of section ten.

Registration
of manufac-
turers and
others.
Tas., ss. 11,
12.
Vict., s. 9.
W.A., ss. 20
to 28.

12—(1) Subject to this section, every manufacturer, tinner, produce agent, processor, dealer, and owner of a cold store shall be registered by the Board as prescribed.

(2) An application for registration under this section shall be made in the prescribed manner and within the prescribed time.

(3) No fee is payable in respect of a registration under this section.

(4) The Board shall grant to a person who is registered under this section a certificate of registration in the prescribed form.

(5) A certificate of registration under subsection (4) of this section remains in force until cancelled as provided by this section.

(6) No person shall, unless he is exempted, in writing, by the Board from the operation of this subsection—

(a) act as a manufacturer, produce agent, or dealer, or as the owner of a cold store; or

(b) carry on business as a tinner or processor, unless he is registered as such under this section.

Penalty: One hundred pounds.

(7) The Board may cancel a certificate of registration under this section if the holder thereof has—

(a) died;

(b) permanently ceased to act as a manufacturer, produce agent, or dealer, or as the owner of a cold store, or to carry on business as a tinner or processor; or

(c) been convicted of an offence against this Act committed after the certificate was granted to him,

and thereupon the certificate ceases to have effect.

13—(1) The Board may, by public notice in a newspaper, require all persons who are registered or required to be registered under section twelve, within such time as is specified in the notice, to furnish to it a return containing such information and particulars relating to dairy products as are prescribed or as may be required by the Board.

Returns.
Tas., s. 13.
N.S.W., s. 9.
Vict., s. 10.
W.A., s. 27.

(2) The Board may, by written notice served by post on a person, require that person, within such time as is specified in the notice, to furnish to it a return containing such information and particulars relating to dairy products as are prescribed or as may be required by the Board.

(3) In any proceedings in respect of a contravention of this section, the allegations set forth in the complaint shall be deemed to be proved in the absence of proof by the defendant to the contrary.

(4) No person, being a person to whom a notice under this section applies, shall fail to furnish a return or supply information as thereby required, or furnish a return or supply information that is false in a material particular.

Penalty: One hundred pounds.

14—(1) All contributions paid as provided by section eight, and all penalties recovered and received under this Act, shall be paid to the Board, and are at the disposal of the Board for the purposes of this Act.

Funds of the Board.
Tas., s. 14.
W.A., s. 42.

(2) The Board shall pay, out of the funds at its disposal for the purposes of this Act, all expenses incurred by it in the administration of this Act, including such remuneration and allowances as the Board may determine to the officers, servants, and agents appointed, employed, or authorized by the Board.

(3) For the purpose of providing the Board with funds to meet its expenses under this Act, the Treasurer may, in his discretion make to the Board, out of any moneys at his disposal, a temporary advance of such amount as he may think fit, on such terms as to the application and repayment thereof and the payment of interest thereon as the Treasurer may determine.

15—(1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for or on account of this Act or pursuant thereto and of the several purposes for which sums of money are so received and paid.

Accounts.
Tas., s. 15
(1), (2).
Vict., s. 12.
(1), (2).
W.A., ss. 44,
45, 46, 47.

(2) The accounts of the Board are subject to the provisions of the *Audit Act* 1918, and the Board shall pay out of its funds to the Treasurer such sum as the Auditor-General shall direct in respect of each audit made by him of its accounts.

Accounts and minutes to be submitted to Minister.

Tas., s. 15

(3).

Vict., s. 12

(4).

W.A., s. 49.

16—(1) The Board shall furnish to the Minister, at the beginning of each financial year, a true copy of the accounts of the Board, as audited by the Auditor-General, together with a true statement of the moneys received by the Board and of the expenditure thereof up to the end of the immediately preceding financial year.

(2) The Board shall, as soon as practicable after each meeting of the Board, furnish the Minister with a certified copy of the minutes of its proceedings at that meeting.

Power of Board to inspect books, &c.

Tas., s. 16.

N.S.W., s. 12.

Vict., s. 13.

17—(1) An officer of the Board or a person who is authorized by the Board in that behalf, either generally or in a particular case, may, at any reasonable time, enter any premises occupied by a person who is registered, or required to be registered, under this Act, and may inspect any books, accounts, registers, documents, or writings found in or upon those premises relating to any transaction in connection with dairy products, and may take copies thereof or of any entries therein, and, in any proceedings in respect of a contravention of this Act, copies of or extracts from any books, accounts, registers, or documents found in or upon any such premises relating to any transaction in connection with dairy products are evidence of the contents of the books, accounts, registers, or documents respectively.

(2) An officer or person to whom subsection (1) of this section relates may require a person who is registered or required to be registered under this Act or an owner of dairy products, or his manager or agent, to furnish him with such particulars in respect thereof as may be required.

(3) No person, when requested so to do, shall fail to produce for inspection pursuant to this section any books, accounts, registers, or documents, or fail to give any information required to be given by him pursuant to this section.

Penalty: Fifty pounds.

Proceedings.

Tas., s. 17.

N.S.W., s. 14.

Vict., s. 15.

18—(1) No proceedings in respect of offences against this Act shall be taken otherwise than by the Board or by some person with its authority.

(2) Proceedings in respect of offences against this Act may be taken by the Board or its secretary or by some person authorized by the Board in that behalf, either generally or specially.

19 No action, claim, or demand lies, or shall be made or allowed, by or in favour of a person against Her Majesty, or the Minister, or the Board, or any member thereof, or any officer or person acting in good faith in the execution of this Act, for or in respect of any damage, loss, or injury sustained, or alleged to be sustained, by reason of the passing of this Act, or of its operation, or anything done in good faith in the execution, or purported execution, of this Act.

Indemnity.
Tas., s. 18.
N.S.W., s. 11.
W.A., s. 58.

20 The Governor may make regulations under this Act, and the regulations may include provision for regulating the procedure of the Board, the cases in which members of the Board shall vacate office, and the cases in which, the persons by whom, and the manner in which, deputies to act in place of members may be appointed.

Regulations.
Tas., s. 19.
N.S.W., s. 15.
Vict., s. 17.
W.A., s. 59.

WATER.

No. 39 of 1957.

AN ACT to provide for the best use of the natural waters of the State and to that end to establish an authority to initiate and control the use of those waters, to codify the statute law affecting their use, to provide for the establishment of local river and water-supply authorities, to repeal the *Water, Sewerage, and Drainage Board Act* 1944 and to repeal or amend other Acts.

[1 November 1957.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Water Act* 1957.

(2) This Act shall commence on a date to be fixed by proclamation.

Short title
and com-
mencement.