

VICTORIAN DAIRY INDUSTRY AUTHORITY BILL 1977.

EXPLANATORY MEMORANDUM.

Clause 1 covers the short title and provides that the several provisions of the Act shall come into operation on a day or the respective days to be fixed by proclamation, or successive proclamations of the Governor in Council published in the *Government Gazette*.

Clause 2 divides the Act into Parts.

Clause 3 refers to the First Schedule which repeals or amends a number of the provisions of the *Milk Board Act 1958*.

Clause 4 provides the interpretations necessary for the Act.

Clause 5 establishes the Victorian Dairy Industry Authority as a body corporate with power to acquire, hold and dispose of personal property and real property.

Clause 6 lists the objects of the Authority which are :

- (a) to ensure that a sufficient supply of milk for human consumption and of dairy produce of a satisfactory standard is provided for all markets in Victoria ;
- (b) to achieve as soon as practicable that all Victorian dairy farmers participate equitably in returns from the markets of milk for human consumption and dairy produce ;
- (c) to provide for orderly marketing and a just return as soon as practicable to Victorian dairy farmers at the farm gate ;
- (d) to foster the integration and rationalization of the milk for human consumption and manufacturing sectors of the Victorian dairy industry ;
- (e) to develop and secure national and export markets for Victorian milk and dairy produce ;
- (f) to achieve the optimum economies within the Victorian Dairy industry ; and
- (g) to deal with matters referred by the Minister and to make recommendations to the Minister on any matters relating to the dairy industry.

Clause 7 provides that subject to the Act, and subject to the general direction of the Minister, the Authority has power to do all things necessary or convenient to be done for or in connexion with the pursuit of its objects.

Clause 8 constitutes the Authority with a membership of six persons appointed by the Governor in Council and nominated by the Minister of whom—

- (a) two shall be representatives of dairy farmers ; and
- (b) two shall be representatives of manufacturing, processing and distributing interests.

The persons nominated in respect of categories (a) and (b) shall be nominated by the Minister after consideration of panels, each of not less than three names, and not more than five names submitted to him at his invitation by the body or bodies which, in his opinion, represent the appropriate interests.

Clause 9 establishes the term of office of each member of the Authority as such period not exceeding three years as is specified in the instrument of appointment and each member is eligible for re-appointment. This Clause also provides that a member of the Authority shall not make improper use of information acquired by virtue of his position as such a member.

Clauses 10 and 11 provide that the Governor in Council shall appoint one member to be Chairman of the Authority ; another member to be Deputy Chairman of the Authority ; and that the Chairman and Deputy Chairman shall hold office for such term not exceeding three years as the Governor in Council determines, and be eligible for re-appointment.

Clause 12 validates the proceedings of the Authority notwithstanding a vacancy in the office of a member or defect or irregularity in the appointment of a member.

Clause 13 provides that the Chairman and each member of the Authority shall be paid such remuneration and such travelling and other allowances as are from time to time fixed by the Governor in Council.

This Clause also provides power for the Authority to insure a member who is not an officer within the meaning of the *Superannuation Act 1958* against accidents or sickness arising out of or in the course of the performance of his duties as a member.

Clause 14 provides that the Governor in Council may remove a member from office and sets out circumstances under which an extraordinary vacancy may arise. A person appointed to fill an extraordinary vacancy will be nominated by the Minister from the same category as the previous holder of that office if the previous holder was so nominated and will hold office for the remainder of the term of office of his predecessor and shall be eligible for re-appointment if he is then qualified.

Clause 15 relates to the chairmanship of meetings of the Authority and specifically provides that a question arising at a meeting of the Authority may be determined by a majority of votes. The Chairman of the meeting will have a deliberative vote as well as a casting vote. A question shall not be determined at a meeting unless at least four members, including either the Chairman or the Deputy Chairman, are present. Subject to the Act, the Authority may regulate its own procedure.

Clause 16 provides that the Authority shall appoint a General Manager and a Secretary to the Authority and such other officers and other employees as are necessary. Subject to the general direction and control of the Authority the general manager will be responsible for the administration of the undertakings of the Authority. No officer or employee of the Authority appointed or employed by the Authority shall be subject to the *Public Service Act 1974*.

Clause 17 safeguards the rights of an officer of the Public Service appointed to the Authority who on the 30th June 1977 was employed with the Milk Board to re-employment in the Public Service in the event that he ceases to hold an office under the Authority and safeguards his rights to superannuation under the *Superannuation Act 1958* while a member or officer of the Authority. This Clause also inserts an amendment to the *Local Authorities Superannuation Act 1958* to include the Victorian Dairy Industry Authority under that Act.

Clause 18 provides that a Fund is to be established to be known as the " Victorian Dairy Industry Authority Fund " into which will be paid all the income of the Authority, including all moneys standing to the credit of the Milk Board Fund on the 1st July, 1977. Out of the fund will be paid all payments for discharging the functions, duties, obligations and liabilities of the Milk Board ; payments for compensation ; any expenditure incurred by the Authority in the treatment, carriage, distribution and sale of milk and dairy produce ; any payments under specified provisions of the Act ; all moneys required for the repayment of borrowings by the Authority ; and the costs of administering the Act and of discharging any function of the Authority under this or any other Act. The amount standing to the credit of the Milk Board Publicity Fund in the accounts of the Milk Board on the 1st July 1977 shall not be expended for any purpose other than the promotion of the use of milk.

Clause 18 also gives power to the Authority to invest money in such manner as the Treasurer of Victoria from time to time approves.

Clause 19 provides that the Authority with the prior approval of the Minister and the Treasurer of Victoria may borrow money for the purpose of carrying out its powers and functions upon such terms and conditions as the Treasurer approves. This Clause also authorizes the Treasurer to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Authority and payment of interest thereon.

Clause 20 requires the Authority to keep proper accounts which are to be audited by the Auditor General, and further provides that the Authority shall before or on the last day of February in each year submit to the Minister to be laid before both Houses of Parliament, a report dealing with the general administration and working of this Act together with a copy of its audited statement and account for the preceding financial year.

Clauses 21 to 24 inclusive relate to the transfer to the Authority of the powers, functions and liabilities of the Milk Board which on the 1st July, 1977 will be abolished and the members thereof will go out of office. On that day, the powers and functions formerly exercised by and the duties and obligations formerly imposed upon the Milk Board will be transferred to and thereafter exercised by and imposed upon the Authority which shall become and be the successor in law of the Milk Board.

Clause 25 relates to the surrender by the holder of a milk contract of his milk contract or part thereof in the period up to the 30th June, 1986 when all milk contracts shall cease. This Clause provides for the payment at the rate of \$55 per litre of the contract quantity surrendered before the 1st July, 1977 as compensation for the effect of the surrender of the milk contract on the capital value of the land and plant to which the milk contract related. After the 30th June, 1977 the amount of compensation will be reduced by \$5.50 per litre of the milk contract each year, or part of a complete year which has elapsed between the 30th June, 1977, until the date of surrender.

Provision has been written in *Clause 25* to give the Authority power to determine how the compensation shall be apportioned between the owner of the land, the lessee or the licensee when the parties cannot agree.

Provision has also been made to cover cases where the holder of a milk contract has, between the 15th December 1976 and the 30th June 1977, requested the Milk Board to accept the surrender of the contract and, instead of accepting the surrender, the Milk Board has cancelled the contract. In such cases the Authority may treat the contract as having been surrendered on the 30th June 1977.

Clauses 26 and 27 provide the procedures by which the holder of a milk contract or the owner of the land to which the contract relates who has surrendered his milk contract is of the opinion that the effect of the surrender of the milk contract on the capital value of the land and plant used in relation to the contract is greater than the amount of compensation that is payable under *Clause 25* may apply to the Valuer-General to determine the amount by which the value of the land and plant used in relation to the milk contract shall diminish by the surrender of the Milk contract. Where the amount determined by the Valuer-General is greater than the amount payable as compensation the Authority shall pay to the dairy farmer the amount by which the determination of the Valuer-General exceeds the amount payable as compensation.

Clause 28 provides that the Authority shall pay to the dairy farmer who delivers and sells milk to the Authority in accordance with his milk contract such amount for the daily contract quantity as determined by the Authority from time to time.

Clause 29 provides that compensation must be paid on or before the 30th September, 1977 or within ninety days of the surrender of the milk contract by the Authority whichever last occurs. Where compensation is not so paid interest will be payable on the compensation at the rate of 10 per cent. per annum until the date of payment.

Clause 30 gives power to the Governor in Council on the recommendation of the Authority by proclamation to declare that as from the date specified in the proclamation, there shall vest in, and become the property of the Authority all milk produced and supplied in any area specified in the proclamation. A proclamation under this Clause may exempt from the operation of the Clause any milk specified in the proclamation or any milk the subject of a milk contract.

Clause 31 provides that all milk vested in the Authority shall, except where otherwise provided by the proclamation, be delivered to the Authority in accordance with the provisions of the Clause.

Any milk delivered to and accepted by the Authority may be disposed of by the Authority to such persons in such manner for such purpose and upon and subject to such terms and conditions as the Authority may determine.

The Authority in respect of all vested milk delivered to it is required to make payments each month of such amounts as are determined by the Authority.

Clause 32 provides that other than specified in the Clause, no proceedings shall be brought in any court against the Authority.

Clause 33 requires every person delivering milk to the Authority which is subject to an encumbrance to give notice to the Authority.

Clauses 34 and 35 provide that the Authority shall not be liable for payments in good faith and protects the Authority in specified cases.

Clause 36 sets out the powers that the Authority may exercise, except to the extent that express provision is made for any matter under the dairying Acts specified in the Second Schedule.

Clause 37 places a duty on the Authority to review the dairying Acts and any other Act or Acts relating to the dairying industry in Victoria and to recommend legislative and administrative changes that are necessary or expedient to enable the objectives of the Authority to be achieved. The Authority is required to submit its report to the Minister not later than the 31st December, 1977 unless a later day is determined by the Minister.

Clause 38 provides that the Authority shall determine a price at which the Authority thinks it appropriate to sell milk to dairies. This Clause sets out the matters that the Authority must make provision for from the proceeds of the sale of milk by the Authority.

This Clause also requires the Authority, after making the required provisions, to distribute among all Victorian dairy farmers, except the holders of milk contracts, supplying milk in Victoria to standards specified by the Authority in proportion to the quantity of milk delivered by each of them to the Authority, dairies, milk depots or factories during the last preceding month, so much of the balance, if any, of such proceeds as the Authority may determine to be available for distribution.

Clause 39 provides the penalties for offences against the Act.