

THE JAMAICA DAIRY DEVELOPMENT BOARD

ACT, 2009

(Act 4 of 2009)

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SCHEDULE.

JAMAICA

No. 4 - 2009

I assent,

[L.S.]

(sgd) P. L. Allen
Governor-General
10th March 2009

AN ACT to Establish a body to be called the Jamaica Dairy Development Board for the development and regulation of the dairy sector and for connected matters.

[The title modified by the Minister]]
Enacted by the Queen and operation

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I. *Preliminary*

1. This Act may be cited as the Jamaica Dairy Development Board Act, 2009, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*. Short title and commencement.

2.—(1) In this Act—

“Board” means the Jamaica Dairy Development Board established under section 3;

Interpretation.

“dairy products” in relation to cows means milk, cream, butter, cheese, condensed milk, evaporated milk, milk powder, dry milk, ice cream, malted milk and any other product manufactured wholly or mainly from milk and includes products that have more than 50% milk solids on a dry weight basis (excluding sugar);

“dairy sector” means activities concerning—

- (a) the production (including the breeding, feeding, health and management of cattle) and consumption of milk; and
- (b) the consumption, manufacture, processing, importation, exportation, transportation, marketing and use of dairy products generally;

“dealer” means a person who, as a principal, purchases imported dairy products or receives locally produced milk for the purpose of processing, selling or reselling of dairy products;

“Federation” means the Jamaica Dairy Farmers Federation;

“functions” includes powers and duties;

“inspector” means a person appointed pursuant to section 28(1);

“milk” means milk from cows;

“place” includes any building or part of a building, tent, stall or other structure, vehicle, vessel, railway car or aircraft;

“producer” means a person who produces and sells or supplies milk from his own herd to a processor;

“trade in dairy products” means the carrying out, on a commercial basis, of any one or more of the following activities in relation to dairy products—

- (a) importing or exporting;
- (b) producing;
- (c) handling;
- (d) processing;

- (e) pasteurizing;
- (f) homogenizing;
- (g) bottling;
- (h) marketing;
- (i) transporting;
- (j) sale; or
- (k) any other economic activity relating to milk;

“transporter” means a person who collects milk from a farm and delivers it to a processing plant;

“vendor” means a person who, as a principal, purchases or receives dairy products from a dealer or producer for resale or distribution to consumers.

PART II. *Jamaica Dairy Development Board*
Establishment and Functions

3.—(1) There is hereby established, for the purpose of this Act, a body to be called the Jamaica Dairy Development Board which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Establishment of Board.

(2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

Schedule.

4.—(1) The objects of the Board shall be to promote the interests of the dairy sector and foster its development and, in particular, to promote local milk production and the achievement of efficiency in the production, processing, marketing and other trade in dairy products.

Objects of Board.

(2) In pursuing its objects under subsection (1), the Board shall have regard to the provisions of the Fair Competition Act.

5.—(1) The Board shall—

Functions of Board.

- (a) formulate appropriate policies for the dairy sector and monitor the growth of that sector;

- (b) supervise, and where necessary, arbitrate milk contractual agreements between—
 - (i) producers and processors;
 - (ii) the Federation and producers; or
 - (iii) the Federation and processors;
- (c) regulate the trade in dairy products;
- (d) disseminate information and reliable statistics on all aspects of the dairy sector;
- (e) advise the Minister on matters of general policy relating to the dairy sector;
- (f) mobilize resources for and on behalf of the dairy sector; and
- (g) perform such other functions pertaining to the dairy sector as may be assigned to it by the Minister.

(2) In performing the functions specified in subsection (1), the Board may—

- (a) introduce cost recovery methods for services provided by or on behalf of the Board;
- (b) in consultation with the appropriate agencies, formulate standards, guidelines and codes of practices relating to the dairy sector and monitor compliance with those standards, guidelines and codes;
- (c) investigate, on its own initiative or at the request of any person and, with the written consent of the parties, arbitrate, adjudicate upon or otherwise settle, any dispute involving dairy producers, dealers, transporters, distributors or vendors;
- (d) investigate—
 - (i) the cost of producing, processing, distributing and transporting dairy products;

- (ii) prices, price spreads, trade practices, methods of financing and the management of the dairy sector; and
 - (iii) other matters relating to the trade in dairy products;
- (e) recommend farm gate prices for milk;
 - (f) advise the Minister on the minimum specifications for equipment used in the dairy sector and the handling practices employed in that sector;
 - (g) require persons engaged in the trade in dairy products to furnish such information relating to those activities and make such returns to the Board as it may specify;
 - (h) establish classifications for dairy products; and
 - (i) do all acts and things necessary or incidental to the exercise of any of its powers or the carrying out of any of its functions under this Act.

6. The Minister may, after consultation with the Chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary in the public interest and the Board shall give effect thereto.

Policy directions.

Administration

7.—(1) The Board shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a Chief Executive Officer and such other officers and employees as the Board deems necessary for the proper carrying out of its functions:

Appointment of officers and other employees.

Provided that—

- (a) no salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister; and
- (b) no appointment shall be made to any post to which salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(2) For the purposes of subsection (1) the “prescribed rate” means such rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Board, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

Pensions,
gratuities and
other retiring
benefits.

8. The Board may, with the approval of the Minister—

(a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and

(b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Board and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

Obligations as
to secrecy

9.—(1) Every person having an official duty or being employed in the administration of this Act shall—

(a) regard and deal with as secret and confidential all documents, information and records—

(i) any opinion, advice or recommendations prepared for the Board; and

(ii) any consultation or deliberation arising in the course of proceedings of the Board; and

(b) make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every person referred to in subsection (1) having possession of or control over any document, information or record relating to the performance of the functions of the Board, who at any

time communicates or attempts to communicate anything contained in such document, information or record to any person—

- (a) other than a person to whom he is authorized by the Minister to communicate it pursuant to any law;
- (b) without the consent in writing of the person or body which provided the information; or
- (c) otherwise than for the purposes of this Act,

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) Every person to whom information is communicated pursuant to an authority of the Minister in that behalf shall regard and deal with such information as secret and confidential and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(4) Any person referred to in subsection (3) who at any time communicates or attempts to communicate any information referred to in that subsection to any person, otherwise than for the purposes of this Act, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Financial Provisions, Accounts and Reports

- 10.—(1) The funds and resources of the Board shall consist of—
- (a) such sums as may from time to time be placed at the disposal of the Board by Parliament;
 - (b) sums derived from the imposition of the cess under section 18; and
 - (c) all other sums and other property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions.

Funds and resources of Board.

(2) The expense of the Board, including the remuneration of members and employees shall be paid out of the funds of the Board.

Power to invest moneys.

11. All moneys of the Board not immediately required to be expended for the purposes of meeting any of the obligations or discharging any of the functions of the Board may be invested in such securities as may be approved by the Minister after consultation with the Minister responsible for finance and the Board may, with the approval of the Minister, sell all or any of such securities.

Accounts and audit.

12.—(1) The Board shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming with generally accepted accounting standards.

(2) The accounts of the Board shall be audited annually by an auditor appointed in each year by the Board with the approval of the Minister.

(3) The Auditor-General shall be entitled at all times to examine the accounts of the Board.

Annual reports and estimates.

13.—(1) The Board shall, within six months after the end of each financial year or within such longer period as the Minister may in special circumstances approve, cause to be made and transmitted to the Minister, a report dealing generally with the activities of the Board and matters relating to the growth and development of the dairy sector during the preceding financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid in the House of Representatives and the Senate.

(3) The Board shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval, estimates of income and expenditure for the ensuing financial year.

Reserve fund.

14.—(1) The Board shall establish a reserve fund to be known as the Capital Reserve Fund into which shall be placed all income derived from investments made under section 11.

(2) The Capital Reserve Fund shall be used for—

- (a) off-setting expenditure on capital goods;
- (b) facilitating the training of officers and employees of the Board and persons involved in the dairy sector;
- (c) financing surveys relating to the dairy sector which may, from time to time, be undertaken by or on behalf of the Board;
- (d) contributing to the funding of research on matters concerning the dairy sector; and
- (e) such other purposes as may be approved by the Minister, after consultation with the Board.

15. The Board shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Board, and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require. Returns, etc.

16.—(1) The Board shall be exempt from liability to stamp duty in respect to any instrument executed by it or on its behalf. Exemption from stamp duty and transfer tax.

(2) Any transfer by the Board of any property belonging to it or of any right or interest created in, over or otherwise with respect to, any such property shall be exempt from transfer tax.

17. Without prejudice to any other method of recovery, all debts due to the Board may be recovered, without limit of amount, in a Resident Magistrate's Court as a civil debt. Recovery of debts.

18.—(1) Subject to subsection (2), the Board may, after consultation with persons involved in the dairy sector, impose a cess on trade in dairy products. Dairy cess.

(2) No cess imposed under subsection (1) shall have any effect unless and until approved by the Minister by order subject to such conditions, if any, as the Minister thinks necessary.

(3) The Board may, with the approval of the Minister, by order specify the rate and method of payment of the cess.

PART III. *Licensing Provisions*

Restriction
on dealings in
dairy
products.

19. No person shall engage in any trade in dairy products unless he is the holder of the appropriate licence granted under section 21, that is to say—

- (a) a producer's licence;
- (b) a dealer's licence; or
- (c) a vendor's licence.

Licence
application.

20.—(1) Every person who proposes to engage in any trade in dairy products shall apply in the prescribed form and manner to the Board for the appropriate licence.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee.

(3) Where the Board thinks necessary, it may, by notice in writing, require an applicant for a licence to provide, within such period as may be specified in the notice, such information or document as it may specify.

Grant or
refusal of
licence.

21.—(1) Upon receipt of an application under section 20, the Board shall cause an inspector to carry out an inspection of the operation to which the application relates.

(2) The inspector shall submit to the Board a report of an inspection carried out under subsection (1).

(3) On receipt of the report referred to in subsection (2), the Board may—

- (a) grant a licence upon payment of the prescribed licence fee;
or
- (b) refuse to grant a licence.

(4) A licence granted under this section shall be subject to such terms and conditions as may be specified therein.

(5) Where the Board refuses to grant a licence under this Act, it shall so inform the applicant in writing stating the reasons therefor.

22. A licence granted under this Act shall not be transferable and shall be valid for such period, not exceeding three years, as is specified therein.

Non-transferability and validity of licence.

23.—(1) The Board may refuse to issue a licence under this Act—

Grounds for refusal to issue licence.

- (a) where, in the opinion of the Board, the applicant is not a fit and proper person to be granted a licence, having regard to such factors as the Board considers relevant;
- (b) where an application contains or is based on a false or misleading representation or information which is false in a material particular;
- (c) to an individual who—
 - (i) is under the age of eighteen years;
 - (ii) is an undischarged bankrupt; or
 - (iii) has been convicted during the period of five years immediately preceding the application of an offence specified in subsection (2); or
- (d) to a body corporate—
 - (i) in respect of which a resolution has been passed for voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;
 - (ii) if a receiver has been appointed to manage any of its assets;
 - (iii) if any of its directors has been convicted of an offence specified in subsection (2) during the period of five years immediately preceding the application; or
 - (iv) which has been convicted during the period of five years immediately preceding the application of an offence under this Act.

(2) The offence referred to in subsection (1) is—

- (a) an offence against this Act or any regulations made hereunder;
or
- (b) an offence involving fraud or dishonesty.

(3) Where the Board refuses to grant a licence, the Board shall give to the applicant reasons for its decision and notify the applicant of the right to appeal under section 27.

Renewal of
licence.

24.—(1) A licence granted pursuant to this Act may be renewed by the Board if—

- (a) an application for renewal is made not later than thirty days before the date of expiry or within such longer period as the Board may allow;
- (b) the Board is satisfied that the licensee is operating in compliance with the provisions of this Act or any regulations made hereunder;
- (c) the applicant has paid all fees payable to the Board under this Act or any regulations made hereunder;
- (d) there has been no material change in the circumstances which existed at the time the licence was granted which would justify the application being treated as a new application in the manner specified in subsection (2); or
- (e) the applicant or his servant or agent has not been convicted of an offence specified in section 23(2).

(2) Where the Board—

- (a) receives an application for the renewal of a licence after the period specified in subsection (1)(a); or
- (b) is satisfied that a material change of circumstances has occurred since the licence had been granted,

it shall treat the application as a new application, and accordingly, the provisions of sections 20 and 21 shall apply in relation to that application.

25.—(1) Subject to subsection (2), the Board may suspend a licence Suspension of licence.
if—

- (a) the licensee has failed to pay any fees or other charges required by this Act or any regulations made hereunder;
- (b) the licensee is in breach of—
 - (i) any provision of this Act or any regulations made hereunder; or
 - (ii) any term or condition subject to which the licence is granted;
- (c) it is satisfied that it is not possible to carry out a proper inspection of the licensed operation; or
- (d) a licensee notifies the Board in writing that he intends to cease the operation for which he is licensed for the period stated in the notice.

(2) Before suspending a licence under subsection (1)(a), (b) or (c), the Board shall notify the licensee in writing of the proposed suspension—

- (a) stating the reason therefor; and
- (b) requiring the licensee, in the case of a breach, to remedy the breach within the time specified in the notice.

(3) A licensee who is served with a notice under subsection (2) shall after remedying the breach which gave rise to the suspension, notify the Board in writing that the breach has been remedied.

(4) The Board shall, upon receipt of a notice referred to in subsection (3), cause an inspection to be carried out within 10 days of the receipt of the notice and if on inspection, the inspector is satisfied that the breach has been remedied, he shall report in writing to the Board which shall withdraw the notice of suspension.

Revocation
of licence.

26.—(1) Subject to subsection (2), the Board may revoke a licence—

(a) if it is satisfied that—

- (i) a licensee has ceased to comply with the provisions of this Act or any regulations made hereunder in relation to the licensed operation;
- (ii) the application for the licence contained any false or misleading representation or information which is false in a material particular; or
- (iii) the licensee has failed to remedy the breach which gave rise to the suspension of the licence under section 25, within the time specified in a notice under subsection (2) of that section; or

(b) where any fee or other charge payable by the licensee remains unpaid for a period of ninety days after the suspension of the licence.

(2) Before revoking a licence under subsection (1), the Board shall notify the licensee in writing of the proposed revocation—

- (a) stating the reasons therefor; and
- (b) requesting that the licence be returned within fourteen days of the effective date of the revocation to the Board.

(3) Every person who, without reasonable or lawful excuse, fails to return a licence to the Board within the time specified in subsection (2) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART IV. *Appeal*

Appeal.

27.—(1) A person who is aggrieved by the decision of the Board not to grant a licence, renew a licence or to suspend or revoke such licence may appeal to the Minister by way of a notice of appeal within twenty-eight days of the date of the decision or within such longer period as the Minister may, in any special circumstance, allow.

(2) The notice of appeal shall set out clearly the grounds of the appeal and there shall be attached to such notice, copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal together with copies of any correspondence, document or statement shall be served on the Board.

(4) The Minister shall, within seven days of the receipt of a notice of appeal under subsection (1), request the Board to furnish him, within seven days, with a statement in writing setting out the reasons for its decision.

(5) The Minister may order that any books, papers, documents or statements, relating to the appeal which are in the possession of the person aggrieved or the Board be produced at the hearing of the appeal.

(6) The Minister shall cause all parties to the appeal to be informed—

- (a) of the date of the hearing of the appeal;
- (b) that they may appear themselves or by their attorney-at-law; and
- (c) that they may summon witnesses in their causes.

(7) On hearing an appeal under this section, the Minister may—

- (a) dismiss the appeal and confirm the decision of the Board;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) allow the appeal and direct that the matter be determined afresh by the Board.

PART V. *Enforcement*

28.—(1) The Board shall appoint as inspectors for the purpose of this Act persons who by training and experience are, in its opinion, qualified to be so appointed. Appointment of inspectors.

(2) The Board shall issue each inspector with a certificate of appointment in the prescribed form and the inspector shall, on entering

any place for the purpose of carrying into effect any of the functions specified in section 29, produce the certificate, on request, to the operator or other person in charge thereof.

(3) The appointment of any person as an inspector pursuant to subsection (1) shall be published in the *Gazette*.

Functions of
inspectors.

29. Every inspector shall—

- (a) carry out such inspections as the Board may require in order to ensure compliance with—
 - (i) the provisions of this Act or any regulations made hereunder; or
 - (ii) any condition subject to which a licence is granted;
- (b) keep such records as may be prescribed;
- (c) submit reports generally to the Board, at such times as the Board may determine; and
- (d) forthwith report to the Board any contravention of this Act or any regulations made hereunder; and
- (e) perform such other functions as may be prescribed.

General
powers of
entry,
inspection
and seizure.

30.—(1) Subject to subsection (2), an inspector may, for the purpose of the execution of this Act or any regulations made hereunder, enter at all reasonable times the premises of any person engaged in or suspected of engaging in trade in dairy products or any other place in which such trade is conducted or suspected of being conducted and inspect any book, document, licence, record, vehicle, storage facility, dairy product, equipment or other article or thing relating thereto (hereinafter referred to as “specified goods and equipment”).

(2) An inspector may, during the course of an inspection under subsection (1)—

- (a) seize and detain any specified goods and equipment; or
- (b) take samples of any dairy product found therein,

which the inspector reasonably believes is being used in contravention of any provision of this Act or any regulations made hereunder.

PART VI. *Offences and Penalties*

31. Every person who engages in any trade in dairy products without a licence issued under section 21 commits an offence and is liable—

Unlawful dealings in dairy products.

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction on indictment in a Circuit Court, to a fine not exceeding two million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

32. Every person who—

Offence of making false or misleading statement.

- (a) for the purposes of obtaining, whether for himself or for any other person, the grant or renewal of any licence under this Act, makes any declaration or statement which is false or misleading in any material particular;
- (b) knowingly furnishes to an inspector or other person performing any duty in relation to this Act, a document that to the knowledge of the firstmentioned person contains information which is false or misleading in any material particular;
- (c) knowingly utters, produces, or makes use of any such declaration or statement or any document containing any false declaration or statement; or
- (d) falsifies or amends any information contained in a licence,

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

33. Any person who—

Offence of threatening, etc., inspector.

- (a) wilfully hinders or obstructs an inspector acting in the execution of his duties under this Act;

- (b) without lawful excuse, fails within a reasonable time to comply with any requirement of an inspector exercising the powers conferred on him under this Act;
- (c) after being required to disclose his true name and place of residence by an inspector acting pursuant to the powers conferred on him under this Act—
 - (i) refuses to disclose his true name and place of residence; or
 - (ii) gives a false name or place of residence;
- (d) impersonates or pretends to be an inspector; or
- (e) assaults, threatens, or intimidates, or uses threatening language or behaves in a threatening manner to any inspector while he is acting in the exercise of his powers or the discharge of his duties under this Act,

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Offence of failure to keep or produce records and documents.

34. Every person who—

- (a) fails to keep any records or other documents required to be kept under this Act or any regulations made hereunder;
- (b) fails without reasonable excuse, to produce such books, records or other documents to an inspector upon being requested to do so,

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars, or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Breach of offence for which no penalty is provided.

35. Every person who commits an offence under this Act or any regulations hereunder in respect of which no special penalty is provided is liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART VII. *Forfeiture*

36. Where a person is convicted of an offence under this Act in which any specified goods and equipment seized and detained under section 30(2)(a) was used in committing the offence the Court may, on an application by the Board, order that the specified goods and equipment be forfeited to the Crown.

Court may order forfeiture of specified goods and equipment.

37.—(1) Where the Board proposes to apply to the Court for an order of forfeiture under section 36 it shall, subject to subsection (4), give written notice to the owner of, and any person, if known, having an interest in or claim to, the specified goods and equipment that it proposes to apply for such an order.

Procedure regarding application for forfeiture.

(2) The owner or other person notified under subsection (1) shall, within thirty days of the date of the notice, show cause why the specified goods and equipment should not be forfeited.

(3) Where the Board is unable to ascertain the owner of or any person having an interest in any specified goods and equipment to which this section applies, the Board shall publish a notice in a daily newspaper circulating in Jamaica regarding the intention of the Board to apply to a Resident Magistrate for an order for forfeiture, not less than thirty days prior to the application.

(4) Notice shall not be required under subsection (1) if the seizure and detention was made in the presence of the owner or person having an interest in the specified goods and equipment.

(5) Any person having an interest in or a claim to any specified goods and equipment seized under this Act may appear at the hearing of the application for forfeiture and show cause why the order should not be made.

(6) If, upon the application of a person prejudiced by an order made under this section, the Court is satisfied that it is just in the circumstances of the case to revoke such order, the Court may revoke such order upon such terms and conditions, if any, as it deems appropriate, and without prejudice to the generality of the foregoing, may require such person to pay in respect of storage,

maintenance, administrative expenses, security and insurance of the specified goods and equipment, such amount as may be charged by the person in whose custody the specified goods and equipment were kept.

(7) An application to the Court under subsection (6) for the revocation of a forfeiture order shall be made within thirty days of the date of the making of such an order or such longer period as the Court may allow, not exceeding six months.

PART VIII. *General*

Regulations. **38.**—(1) The Board, after consultation with the Minister, may make regulations for the purpose of giving effect to the provisions and purposes of this Act.

(2) Notwithstanding section 29 of the Interpretation Act, regulations made under subsection (1) may provide for the imposition of penalties on summary conviction before a Resident Magistrate not exceeding a fine of one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Regulations made under subsection (1) shall be subject to affirmative resolution.

Act applies to the Crown. **39.** This Act binds the Crown.

Minister may amend monetary penalties. **40.** The Minister may, subject to affirmative resolution, amend the monetary penalties specified in this Act.

SCHEDULE (Section 3)

Jamaica Dairy Development Board

1. The Board shall consist of— Constitution
of Board.
- (a) the following *ex officio* members—
 - (i) the Cabinet Secretary;
 - (ii) the Director-General of the Planning Institute of Jamaica;
 - (iii) the Permanent Secretary in the Ministry responsible for agriculture;
 - (iv) the Permanent Secretary in the Ministry responsible for industry;
 - (v) the Chief Executive Officer of the Board; and
 - (b) six other persons (hereinafter referred to as “appointed members”)—
 - (i) four of whom are, in the opinion of the Minister, persons knowledgeable and experienced in matters relating to the dairy sector;
 - (ii) one of whom is, in the opinion of the Minister, a person knowledgeable and experienced in matters relating to finance; and
 - (iii) a veterinary surgeon registered under the Veterinary Act.
2. The appointed members shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for such period, not exceeding three years, as may be specified in the instrument of appointment. Tenure of
office
3. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*. Gazetting of
appoint-
ments.
4. Every appointed member shall be eligible for reappointment but no appointed member shall be appointed for more than six consecutive years. Re-
appointment.
5. If any vacancy occurs in the appointed membership such vacancy shall be filled by the appointment of another appointed member who shall, subject to the provisions of this Schedule, Filling of
vacancy.

hold office for the remainder of the period for which the previous appointed member was appointed.

Chairman and
deputy
chairman.

6.—(1) The Minister shall appoint a chairman and a deputy chairman from among the members of the Board.

(2) In the case of the absence or inability to act of the chairman, the deputy chairman shall perform the functions of the chairman.

(3) In the case of the absence or inability to act of both the chairman and deputy chairman, the Minister may appoint any other member of the Board to perform the functions of the chairman, or, as the case may be, the deputy chairman during such absence or inability.

(4) The chairman shall have no business or financial interest in the dairy sector.

Grant of
leave of
absence.

7. The Minister, on the application of any appointed member, may grant to such member leave of absence for any period not exceeding six months and may appoint some other person to act as a member during the period of leave of absence so granted.

Resignation
of appointed
member.

8.—(1) An appointed member, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument, that person shall cease to be an appointed member.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and his resignation shall take effect from the date of the receipt of the instrument by the Minister.

Procedure
and meetings.

9.—(1) The Board shall meet at such times as may be necessary or expedient for the carrying out of its functions, and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The chairman may, at any time, call a special meeting of the Board and shall call a special meeting to be held within seven days on a written request for that purpose addressed to him by any three members of the Board.

(3) The chairman or, in the case of the inability to act of the chairman, the deputy chairman shall preside at the meetings of the Board and in the absence of both the chairman and the deputy chairman from any meeting, the members of the Board

present shall elect one of their number to preside at that meeting and when so presiding the chairman, the deputy chairman or the member elected as aforesaid, as the case may be, shall have a casting vote in any case in which the vote is equal.

(4) The quorum of the Board shall be five.

(5) Subject to the provisions of this Schedule, the Board may regulate its proceedings.

(6) The validity of any proceedings of the Board shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(7) Minutes of each meeting of the Board shall be kept in proper form.

10.—(1) The seal of the Board shall be authenticated by the signature of the chairman or any other member of the Board authorized to act in that behalf or any officer of the Board so authorized and shall be judicially and officially noticed.

Authentica-
tion of seal
and
documents.

(2) All documents, other than those required by law to be under seal, made by and all decisions of, the Board may be signified under the hand of the chairman or any member or officer of the Board authorized to act in that behalf.

11. There shall be paid from the funds of the Board to the chairman, the deputy chairman, and other members of the Board, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Remunera-
tion of
members.

12.—(1) The Board may, with the approval of the Minister, appoint—

Appointment
of commit-
tees.

(a) an advisory committee to be known as the Dairy Advisory Committee to advise the Board on matters relating to the dairy sector; and

(b) such other committees for special purposes connected with the functions of the Board and which in the opinion of the Board, would be better regulated and managed by means of committees.

(2) The Dairy Advisory Committee shall be constituted as follows—

(a) four members shall be representatives of milk producers;

- (b) one member shall be a representative of milk processors;
- (c) one member shall be a representative of milk producers who are also milk processors;
- (d) one member shall be a representative of milk traders; and
- (e) one member shall be a representative of an organization representing consumers.

(3) The Minister shall appoint as Chairman of the Dairy Advisory Committee a person who has no business or financial interest in the dairy sector.

(4) A committee appointed pursuant to sub-paragraph (1)(b) may include persons who are not members of the Board but at least one of the members of any such committee shall be a member of the Board.

(5) The Board shall determine—

- (a) the terms of appointment of members of committees;
- (b) the quorum of the committees; and
- (c) with respect to a committee appointed under sub-paragraph (1)(b), the number of members and the area within which the committee is to exercise authority.

(6) The provisions of paragraph 13 shall apply to a member of a committee who is not an appointed member in like manner as they apply to an appointed member.

(7) The validity of the proceedings of a committee appointed pursuant to this paragraph shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(8) Subject to the provisions of this Schedule, the Dairy Advisory Committee shall regulate its own proceedings.

Protection of members.

13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if the said member were an employee or an agent of the Board.

(3) The provisions of sub-paragraphs (1) and (2) shall apply to the Dairy Advisory Committee and any other committee in like manner as they apply to the Board.

14. A member of the Board who is directly or indirectly interested in any matter which is being dealt with by the Board—

(a) shall disclose the nature of his interest at a meeting of the Board; and

(b) shall not be present during the deliberation of the Board on the matter or take part in the decision of the Board with respect thereto.

Disclosure of interest.

15. The office of the chairman, deputy chairman or member of the Board shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.

Office of member not public office.

Passed in the House of Representatives this 9th day of December, 2008.

DELROY CHUCK,
Speaker.

Passed in the Senate this 30th day of January, 2009, with six (6) amendments.

OSWALD G. HARDING, OJ, CD, QC,
President.

On the 10th day of February, 2009, the House of Representatives agreed to the amendments made by the Senate, with one (1) amendment.

DELROY CHUCK,
Speaker.

On the 13th day of February, 2009, the Senate agreed to the further amendment made by the House of Representatives.

OSWALD G. HARDING, OJ, CD, QC,
President.

This printed impression has been carefully compared by me with the Act which has passed the House of Representatives and Senate, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.