

*Milk and Milk Products (Dairy Advisory Committee) (Establishment) Order/
Malawi Dairy Industries Corporation (Establishment) Order*

[Subsidiary]

SUBSIDIARY LEGISLATION

**MILK AND MILK PRODUCTS (DAIRY ADVISORY
COMMITTEE) (ESTABLISHMENT) ORDER**

G.N.
31/1973

under s. 4

1. This Order may be cited as the Milk and Milk Products (Dairy Advisory Committee) (Establishment) Order. Citation

2. A Dairy Advisory Committee for the Southern Region, to be known as the Southern Region Dairy Advisory Committee, is hereby established. Establish-
ment
of a Dairy
Advisory
Committee

**MALAWI DAIRY INDUSTRIES CORPORATION
(ESTABLISHMENT) ORDER**

G.N. 45/1987

under s. 6

PART I

PRELIMINARY

1. This Order may be cited as the Malawi Dairy Industries Corporation (Establishment) Order. Citation

2. In this Order— Interpretation
“Board” means the Board of Directors of the Corporation appointed under paragraph 4.

PART II

ESTABLISHMENT AND COMPOSITION OF THE MALAWI DAIRY
INDUSTRIES CORPORATION

3. There is hereby established a body to be known as the Malawi Dairy Industries Corporation which shall— Establish-
ment of the
Corporation

(a) be a body corporate with perpetual succession and a common seal;

(b) in its corporate name, be capable of suing and being sued;

(c) be capable of holding, purchasing and otherwise acquiring and disposing of any property, moveable or immoveable, for the purposes, or in the course, of carrying out its functions; and

(d) be capable of doing and performing all such acts and things as bodies corporate may by law do and perform.

4. The operations of the Corporation shall be managed and controlled by a Board of Directors which, subject to the special or general directions of the Minister, may exercise all the powers of the Corporation. Board of
the
Corporation

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*Malawi Dairy Industries Corporation (Establishment) Order*Composition
of the Board

5.—(1) The Board shall consist of—

(a) one member appointed by the Minister and designated by him as chairman of the Board;

(b) two members appointed by the Minister from the private sector, one as representative of the retail trade, and the other as representative of consumers, of dairy products;

(c) two members representing the interests of producers appointed by the Minister, one as representative of smallholder producers and the other as representative of estate producers, of dairy products;

(d) the following *ex officio* members—

(i) the Secretary for Agriculture or his representative;

(ii) the Secretary to the Treasury or his representative;

(iii) the Secretary to the President and Cabinet or his representative; and

(iv) the Secretary for Trade, Industry and Tourism or his representative;

(v) the Chief Veterinary Officer.

(2) A member of the Board shall, subject to the power of the Minister at any time to terminate the appointment of that member, or unless he otherwise ceases to be a member, hold office for such period, not exceeding two years, as the Minister may specify in the instrument of appointment or, if no such period is specified, for a period of two years from the date of his appointment, and shall be eligible for re-appointment.

(3) Any member of the Board may at any time resign his membership by giving notice in writing to the Minister, and from the date specified in the notice he shall cease to be a member of the Board.

(4) A member of the Board shall be paid out of the funds of the Corporation such allowance as the Minister may from time to time determine.

(5) Upon the appointment of the Board and upon every appointment thereto of a member, the Minister shall cause notice of such appointment to be published in the *Gazette* and such notice shall specify the current membership of the Board resultant upon such appointment.

(6) Where any member of the Board ceases to be a member before the normal expiration of the term of his office, the Minister may appoint another person in his stead to hold office until the expiry of the term.

(7) In subparagraphs (2), (3), (4), (5) and (6) of this paragraph—
“member” means a member of the Board who is not an *ex officio* member.

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6.—(1) The Board shall meet at such times and places as may be necessary or expedient for the transaction of its business.

Procedure at meeting of the Board

(2) At any meeting of the Board five members thereof shall constitute a quorum.

(3) The Board may elect any member thereof to be vice-chairman of the Board.

(4) At any meeting of the Board the chairman shall preside or, in the absence of the chairman, if a vice-chairman has been elected the vice-chairman shall preside or, if no vice-chairman has been elected or if the vice-chairman is also absent, the members present at the meeting shall elect one of their number to be chairman for that meeting.

(5) In the event of an equality of votes, the chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(6) Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the chairman of that next meeting.

(7) Subject to this paragraph and to any directions given by the Minister, the Board may regulate its own procedure.

(8) The Board may in its discretion invite any person, and the Minister may nominate any officer in the public service to attend any meeting of the Board, and such person or officer may, with the consent of the chairman of the meeting, speak but shall not be entitled to vote at that meeting.

7. Subject to the provisions of paragraph 3 relating to a quorum, the Board may act notwithstanding any vacancy in the membership thereof and no act or proceedings of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

Vacancies, etc., not to invalidate proceedings

8. A member of the Board shall not, by virtue only of his membership, be deemed to be an officer in the public service or an officer of the Corporation.

Members not deemed public officers

9.—(1) The Board may, with the consent of the Minister, establish one committee or more to carry out any special or general functions determined by the Board and may delegate to any such committee such of the functions and powers of the Board as the Board may consider expedient.

Committees of the Board

(2) The chairman of the Board shall, by reason of his office, be a member of every committee established pursuant of subparagraph (1).

(3) The chairman of each committee shall be appointed by the Board from amongst the members of the Board.

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(4) Each committee may co-opt as members of such committee persons who are not members of the Board and any of such members so co-opted may or may not be officers in the public service.

(5) The chairman of each committee may, at any time and at any place, convene a meeting of the committee of which he is chairman.

(6) The Board may, at any time, direct the chairman of any committee to convene a meeting of such committee and such chairman shall, as soon as is practicable, comply with such direction.

(7) Every committee shall keep minutes of its meetings and shall inform the Board of its activities and shall conduct its proceedings in such manner as the Board may direct.

(8) The Minister may nominate any officer in the public service to attend any meeting of any committee, and that officer may take part in the proceedings of any such meeting as if he were a member of such committee, save that he shall not be entitled to vote thereat.

(9) Any member of a committee who is not an officer in the public service shall, in respect of expenses incurred by him in travelling and subsistence while discharging his duties as such member of that committee, be paid out of the funds of the Corporation, such allowances as the Board may determine and as may be, either generally or specially, approved by the Minister.

PART III

PURPOSES, FUNCTIONS AND POWERS OF THE CORPORATION

Purpose of the Corporation 10. The purpose of the Corporation shall be to foster a commercial basis—

(a) the improvement and multiplication of livestock for the production of milk and milk products;

(b) the manufacture, processing, sale and distribution of milk and milk products.

Functions of the Corporation 11.—(1) The functions of the Corporation shall be to engage, on a commercial basis, in—

(a) the production of livestock for the production of milk and milk products;

(b) the processing of milk and milk products;

(c) purchasing, from smallholder and estate producers, milk of acceptable commercial standard and quality;

(d) the establishment and operation of factories and other processing and marketing infrastructure necessary for the fulfilment of its functions and for furthering the development of dairy farming as a viable economic enterprise for both smallholder and estate farmers;

(e) the processing of milk and milk products to standards suitable for human consumption;

(f) the production, marketing or otherwise disposing, within Malawi, of the Corporation's milk and milk products, livestock and crops; and the Corporation may, with the approval of the Minister and subject to any other written law, export any quantities and such products which are surplus to demand in Malawi;

(g) the transportation of milk and milk products from designated centres and collection points to the processing factory or other processing facility; but so, however, that in carrying out this function it shall not be deemed to be the responsibility of the Corporation to develop such centres and collection points nor to subsidize the costs of such transportation to the processing facility.

(2) In the performance of its functions the Corporation shall be subject to the general or special directions of the Minister.

12. Subject to the provisions of the Act and to this Order and to any other written law, the Corporation shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be necessary, desirable, advantageous or convenient for, or in connexion with, the carrying out of its functions or to be incidental or conducive to their proper discharge and may carry out its functions either alone or in association with any other person or body.

General powers of the Corporation

PART IV

MANAGEMENT OF THE CORPORATION

13.—(1) Subject to subparagraph (2), the Board shall appoint a General Manager of the Corporation who shall be the Chief executive officer of the Corporation and shall be entitled to be present and to speak, but not to vote, at meetings of the Corporation.

General Manager and other staff of the Corporation

(2) The appointment of the General Manager of the Corporation and the terms and conditions of his service shall be subject to the approval of the Minister.

(3) Subject to the approval of the Minister, the Board may from time to time appoint, on terms and conditions determined by the Board, such other officers, clerks and servants, subordinate to the General Manager, as it considers necessary for carrying out the functions of the Corporation.

14.—(1) The Corporation may establish and maintain pension, superannuation, provident and other funds as it may consider desirable for the provision of payments or other allowances upon death, sickness, injury, superannuation, resignation, retirement or discharge of members of its staff.

Pensions and other funds

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(2) The Corporation may pay money out of the revenue of the Corporation to the funds referred to in subparagraph (1) and may provide for the contribution of moneys to such funds by members of its staff.

(3) The Corporation may contract with insurance companies and other bodies for the maintenance of any funds required for the purposes of this paragraph.

PART V

FINANCIAL PROVISIONS

Funds of the Corporation

15.—(1) The funds of the Corporation shall consist of—

(a) such sums as may, from time to time, be payable to the Corporation from the moneys appropriated by Parliament for the purpose;

(b) such moneys or other assets as—

(i) shall vest in the Corporation by virtue of paragraph 22;

(ii) may accrue to or vest in the Corporation in the course of the exercise of its functions or power or otherwise;

(iii) may accrue to or vest in the Corporation by way of grants, subsidies, donations, bequests, gifts, subscriptions, rents, interest or royalties, from the Government or any other person or body;

(iv) such sums as are derived from the sale of any property, moveable or immovable, by or on behalf of the Corporation.

Investment

16. The Corporation may, with prior written approval of the Minister given either generally or specially and subject to such conditions as he may impose, invest such part of its funds as are not for the time being required for the purposes of its operations.

Accounts

17.—(1) The Corporation shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year of the Corporation a statement of accounts in a form which conforms to the best commercial standards or in a form which the Minister may otherwise direct.

Cap. 37:01

(2) Subject to any directions given by the Minister for the time being responsible for Finance under section 45 of the Finance and Audit Act, the accounts of the Corporation for each financial year shall be audited and reported upon within six months after the end of that financial year by professional auditors appointed in respect of that financial year by the Board and approved by the Minister.

(3) As soon as the accounts of the Corporation for a financial year have been audited, the Corporation shall send to the Minister a copy of the statement of accounts prepared in respect of that financial year together with a copy of the report of the auditors and the report upon its work and operations during that financial year.

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18. Subject to the provisions of the Finance and Audit Act, the Corporation shall conduct its financial affairs in a manner commensurate with the best commercial practices.

Conduct of financial affairs
Cap. 37:01

19. Subject to the provisions of section 31 (1) of the Finance and Audit Act, the Corporation may borrow, by way of overdraft, loans or otherwise, such sums as it may require for meeting its obligations or carrying out its operations.

Borrowing powers of
Cap. 37:01

20. The financial year of the Corporation shall be a period of twelve months ending 30th September each year:

Financial year

Provided that the first financial year of the Corporation may be a period shorter or longer than twelve months, but not exceeding twenty-four months, ending on 30th September of such year as the Minister may specify by general notice published in the *Gazette*.

PART VI

MISCELLANEOUS PROVISIONS

21.—(1) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Corporation—

Execution of documents

(a) if sealed with the common seal of the Corporation and signed by two members of the Board designated for that purpose;

(b) if executed in that behalf by the chairman of the Board, or other member thereof appointed by the Board for that purpose, and by the General Manager or any other officer of the Corporation acting in that office.

(2) A deed, instrument, contract or other document executed in accordance with subparagraph (1) shall, subject to any exception that may be taken thereto on any ground other than that of the competence of the party executing the same on behalf of the Corporation, be effectual in the law to bind the Corporation and its successors thereto and may be varied or discharged in like manner as that in which it was executed.

PART VII

TRANSITIONAL

22.—(1) All property, assets, rights, liabilities (except those liabilities relating to the Malawi Milk Marketing Project which by agreement with the Government, may be converted into equity capital of the Corporation held by the Government), obligations, agreements and other arrangements (other than arrangements with foreign Governments or other foreign donor agencies) existing at the commencement of this Order and vested in, acquired, incurred or entered into by or on behalf of the Government in respect of—

Transfer of assets, etc.

(a) the Malawi Milk Marketing Project; and

(b) the Malawi/Canada Dairy Cattle Development Project,

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shall, upon the commencement of this Order, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Corporation and shall become enforceable by or against the Corporation to the same extent as they were enforceable by or against the Government.

(2) Where the transfer of any property transferred to or vested in the Corporation under subparagraph (1) is required by any written law to be registered, the Board shall, within one year from the commencement of this Order or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Corporation or any person by way of registration fees, stamp or other duties—

(a) make such entries in the appropriate register as shall give effect to the transfer;

(b) where appropriate, issue to the Corporation a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and

(c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.