

## Dairy Industry Acts (1952 to 1997) by Parliamentary Counsel 009

### ANALYSIS

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REPRINTED ACT  
[WITH AMENDMENTS INCORPORATED]

**DAIRY INDUSTRY**

REPRINTED AS ON 1 JUNE 1998

NOTE: Except where otherwise indicated, all references to money in decimal currency in square brackets were substituted for references to money in the former currency by s. 7 of the Decimal Currency Act 1964.

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 THE DAIRY INDUSTRY ACT 1952

1952, No. 55

An Act to consolidate certain enactments relating to the inspection of dairies, and the manufacture, sale, and export of dairy produce [23 October 1952

1. Short Title and commencement---This Act may be cited as the Dairy Industry Act 1952, and shall come into force on the 1st day of January 1953.

2. Interpretation---In this Act, unless the context otherwise requires,---

"Butterfat" means the pure fat of milk:

"Conveyance" includes every description of cart, wagon, truck, or other vehicle:

"Cream" includes whey cream:

"Dairy" means---

(a) A milk house, milk shop, dairy factory, and any other place where dairy produce is collected, deposited, treated, separated, prepared, or manufactured, or is sold or offered or exposed for sale; and includes---

(b) A farm, stockyard, milking yard, paddock, shed, stable, stall, and any other place where cows from which the milk supply of a dairy is obtained are depastured or kept:

["Dairy company" means a company limited by shares, registered under the Companies Act 1955, or a company where the liability of the shareholders is limited, registered under the Companies Act 1993, and formed for the purpose of establishing and carrying on a dairy factory and disposing of dairy produce:]

"Dairy factory" means a cheese factory, butter factory, condensed-milk factory, milk-powder factory, or other factory engaged in the manufacture of dairy produce, and includes a skimming station, a buying or receiving station, or any other premises ancillary to a dairy factory:

"Dairy produce" means milk, cream, butter, or cheese, and includes any other product of milk or cream:

["Director" means the chief executive of the [[Ministry of Agriculture and Forestry]]:]

"Disease", in the case of other than human beings, means any disease within the meaning of [the Animals Act 1967]:

"Infected" means infected with disease:

["Inspector" means an Inspector appointed pursuant to section 4 of this Act, and includes the Director:]

"Milk" means the milk of cows, goats, and sheep:

["Milk station" means any plant or premises used or intended to be used for processing milk for sale for human consumption:]

["Minister" means the Minister of Agriculture and Forestry:]

"Owner" means the owner, whether jointly or severally, and includes the owner's agent or manager; it includes also, in the case of a company, the manager, secretary, or other principal officer thereof:

"Package" includes cask, keg, crate, can, box, case, wrapper, tin, and every other receptacle or covering used for the packing of dairy produce:

"Prescribed" means prescribed by this Act or by regulations under this Act:

"Pure milk" means the whole of the milk (including what is commonly known as the strippings) drawn at the time of milking; but does not include milk containing less than 3 percent of butterfat, or mixed with any preservative or chemical or colouring matter of any kind:

"Ship" includes a vessel of any description propelled by any means whatever:

"Stock" means stock as defined by the Stock Act 1908.

Cf. 1908, No. 37, s. 2; 1922, No. 41, s. 2

"Dairy company": The definition of this term was substituted for the original definition by s. 2 of the Company Law Reform (Transitional Provisions) Act 1994.

"Director": The definition of this term was substituted for the former definition (as inserted by s. 2 of the Ministry of Agriculture and Fisheries Amendment Act 1976) by s. 5 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1989. By s. 6 (1) (a) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 the reference to the Director-General of Agriculture and Fisheries was changed to the chief executive of the Ministry of Agriculture. Ss. 2 and 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 changed the Ministry of Agriculture to the Ministry of Agriculture and Forestry (referred to as the new ministry) and s. 5 (1) (a) changed the Director-General of Agriculture to the chief executive of the Ministry of Agriculture and Forestry.

"Disease": The Animals Act 1967, being the latest corresponding enactment in force at the date of this reprint, has been substituted for the Stock Act 1908, which was repealed by s. 109 of the Animals Act 1967. The Animals Act 1967 was repealed by s. 167 (1) of the Biosecurity Act 1993, which Act does not define "disease" as it had been defined in the Stock Act 1908 or in the Animals Act 1967.

"Inspector": The definition of this term was inserted by s. 2 of the Dairy Industry Amendment Act 1976.

"Milk station": The definition of this term was inserted by s. 2 of the Dairy Industry Amendment Act 1976.

"Minister": The definition of this term was substituted for the original definition (as amended by s. 3 (6) (a) of the Ministry of Agriculture and Fisheries Amendment Act 1972) by s. 2 of the Dairy Industry Amendment Act 1980. In this definition the reference to the Minister of Agriculture and Forestry has been substituted in this reprint pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for a reference to the Minister of Agriculture.

"Stock": The Stock Act 1908 was repealed and replaced by s. 109 of the Animals Act 1967 with no corresponding definition of "stock".

3. Certain provisions of other Acts not affected---Except in so far as the Governor-General by Order in Council otherwise directs, nothing in this Act shall affect the operation of any of the following enactments in so far as they relate to dairy produce or dairies, that is to say:

(a) [The Health Act 1956]; or

(b) [The Food Act 1981 and the Medicines Act 1981]; or

(c) So much of [the Local Government Act 1974] as empowers a Council to make bylaws in respect of the public health and convenience:

Provided that no person shall be punished twice in respect of the same offence:

Provided also that compliance with any specified provision of this Act shall be deemed to be a sufficient compliance with the corresponding provision of any of the said enactments or of any bylaw thereunder.  
Cf. 1908, No. 37, s. 3

The Health Act 1956, the Food Act 1981 and the Medicines Act 1981, and the Local Government Act 1974, being the corresponding enactments in force at the date of this reprint, have been substituted respectively for the Health Act 1920 (repealed by s. 140 (1) of the Health Act 1956), the Food and Drugs Act 1947 (repealed by s. 115 of the Medicines Act 1981), and the Municipal Corporations Act 1933 (which was repealed by s. 413 (1) of the Municipal Corporations Act 1954 and that Act was repealed by s. 9 (1) of the Local Government Amendment Act 1979).

As to dairy produce for export, see S.R. 1996/200.

## Officers

4. Appointment of Inspectors, Analysts, etc.---(1) There may from time to time be appointed under [the State Sector Act 1988] such Inspectors, Analysts, experts, and other officers and employees as are required for the purposes of this Act.

(2) The Governor-General may from time to time appoint any person, not being an officer or employee of the Public Service, as an Analyst or officer in a part-time capacity for the purposes of this Act,

and may also prescribe the powers and functions of any person so appointed. No person appointed under this subsection shall by virtue of that appointment become an officer or employee of the Public Service, and nothing in [the State Sector Act 1988] shall apply with respect to any appointment made under this subsection.

(3) All Inspectors under [the Animals Act 1967] shall be deemed to be Inspectors under this Act.

(4) Every Inspector under this Act shall, for the purposes of this Act, have all the powers and functions of an Inspector under [the Food Act 1981 and the Medicines Act 1981] and [the Animals Act 1967].

(5) Every Analyst under this Act shall, for the purposes of this Act, have all the powers and functions of an Analyst under [the Food Act 1981 and the Medicines Act 1981]:

Provided that this subsection shall not apply with respect to any Analyst appointed by the Governor-General except to such extent as may be prescribed by the Governor-General.

Cf. 1908, No. 37, s. 4

In subss. (1) and (2) the State Sector Act 1988, being the corresponding enactment in force at the date of this reprint, has been substituted for the Public Service Act 1912, which was repealed by s. 77 (1) of the State Services Act 1962 and that Act was repealed by s. 88 (1) of the State Sector Act 1988.

In subss. (3) and (4) the Animals Act 1967, being the latest corresponding enactment in force at the date of this reprint, has been substituted for the repealed Stock Act 1908.

In subss. (4) and (5) the Food Act 1981 and the Medicines Act 1981, being the corresponding enactment in force at the date of this reprint, have been substituted for the repealed Food and Drugs Act 1947.

[4A. Analysts who are not public servants---(1) The Director may from time to time appoint any suitable person (not being an employee in the State Services) to be an Analyst for the purposes of this Act.

(2) Every person appointed under subsection (1) of this section---

(a) Shall be appointed for such term, not exceeding 3 years, as the Director thinks fit, and may from time to time be re-appointed:

(b) May be paid, out of money appropriated by Parliament for the purpose, such remuneration as the Director from time to time determines:

(c) May at any time be removed from office by the Director for incapacity, neglect of duty, or misconduct:

(d) May at any time resign his or her office by writing addressed to the Director.

(3) Every person appointed under subsection (1) of this section shall, on the expiration of his or her term of appointment, or on the sooner expiry of his or her appointment by removal from office or resignation, surrender to the Director his or her warrant of appointment.

(4) No person appointed by the Director under subsection (1) of this section shall by reason only of that appointment be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.]

This section was inserted by s. 46 (1) of the Crown Research Institutes Act 1992.

## Inspection and Sanitation

5. Special powers of Inspectors---In the exercise of his functions under this Act an Inspector may do the following things, that is to say:

(a) He may at all reasonable times enter, inspect, and examine any dairy, and may also inspect and examine any stock, utensil, machinery, apparatus, or works in a dairy, or used in connection with a dairy or with dairy produce, and also any building, conveyance, or ship used for the storage or carriage of dairy produce:

(b) He may at any dairy or elsewhere inspect and examine any dairy produce, or the food or water supplied to any dairy or to the stock in or about any dairy, and also demand and without payment take samples thereof for inspection or analysis:

(c) He may at any time and in any place detain and open any package containing or supposed to contain dairy produce, for the purpose of inspecting or taking samples of the contents thereof, or of ascertaining whether the package bears or contains any false description or brand.

Cf. 1908, No. 37, s. 5

6. Inspector may order defects to be remedied---In any case where, as the result of his inspection and examination, the Inspector is satisfied of the existence of any of the following defects, that is to say:

(a) That any dairy is in an unclean or unwholesome condition; or

(b) That any dairy produce produced in or stored on any dairy is likely to be contaminated by reason of any structure or other thing situated in the neighbourhood of the dairy, or of any operations carried on or of any conditions obtaining in the neighbourhood thereof; or

(c) That any utensil, machinery, or apparatus in or about the dairy or used in connection with dairy produce is in an unclean or unwholesome condition, or is otherwise unfit for the purpose; or

(d) That any building, conveyance, or ship used for the storage or carriage of dairy produce is in an unclean or unwholesome condition, or is otherwise unfit for the purpose; or

(e) That any stock in or about a dairy, or used in connection therewith or with dairy produce, are diseased; or

(f) That any person employed in or about a dairy is affected with any contagious or infectious disease within the meaning of [the Health Act 1956], or is a member of a household wherein any person is affected with any such disease; or

(g) That any food or water supplied to stock, or any water used in connection with a dairy, is impure or unwholesome,---

he may, by order in writing under his hand delivered to the owner, consignee, or person in charge, without further name or description, require the defects to be remedied to his satisfaction; and every such order shall be duly obeyed.

Cf. 1908, No. 37, s. 6; 1926, No. 35, s. 2

In para. (f) the Health Act 1956, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Health Act 1920.

7. What matters may be included in order---For the purposes of the last preceding section the Inspector may by any such order---

(a) Order any dairy, utensil, machinery, apparatus, or work, building, conveyance, or ship, as the case may be, to be forthwith cleansed, disinfected, and rendered wholesome to his satisfaction; or

(b) Forbid the same to be used in any way for the purposes of dairy produce, either absolutely or until all defects have been remedied to his satisfaction, or for such time as he thinks necessary; or

(c) Order any stock condemned by an Inspector to be forthwith removed and dealt with as diseased stock; or

(d) Forbid the removal from a dairy of any dairy produce for such time as he thinks necessary.

Cf. 1908, No. 37, s. 7

8. Apportionment of certain expenditure between landlord and tenant---(1) In the case of a farm where the relationship of landlord and tenant exists between the owner and the actual occupier thereof the following provisions as to the apportionment of the expenditure shall, in the absence of an express agreement to the contrary, apply where expenditure on buildings or other permanent improvements of the farm is rendered necessary by reason of an order of an Inspector made pursuant to sections 6 and 7 hereof:

(a) If the interest of the tenant at the time the expenditure is incurred is for a term of not more than 2 years and 6 months the whole of the expenditure shall be borne by the landlord:

(b) If the interest of the tenant at the time the expenditure is incurred is for a term exceeding 2 years and 6 months the tenant shall pay a sum equal to 5 percent of the total expenditure for each year of the unexpired term of his interest, and the landlord shall pay the balance, if any. If the term includes a broken period, and that period exceeds 6 months, it shall count in the computation as one year, but otherwise shall not be counted:

Provided that, in either of the cases aforesaid, if the business of dairying has not previously been carried on on the farm and the tenant commences that business without the consent in writing of his landlord the tenant shall bear the whole of the expenditure.

(2) If any landlord or tenant pays more than his proper proportion hereunder of such expenditure as aforesaid he may recover the excess from his tenant or landlord (as the case may be) as a debt due to him, and any tenant may set off any sum recoverable by him under this subsection against any rent payable to his landlord.

(3) Where an order involving expenditure to which the provisions of this section will apply is served on a tenant, he shall forthwith forward a copy thereof to the landlord; and if the tenant incurs any expenditure without taking such action as aforesaid the landlord shall not be liable to make any contribution towards the expenditure in terms of this section.

(4) A copy of this section shall be printed on every such order as aforesaid.  
Cf. 1926, No. 35, s. 3

9. Unfit dairy produce may be condemned---The Inspector shall, by order under his hand delivered to the owner, consignee, or person in charge, condemn any dairy produce whenever he is satisfied that the produce is unfit for human consumption; and all dairy produce so condemned shall be disposed of in such manner as is prescribed.  
Cf. 1908, No. 37, s. 8

[9A. Building Act 1991---(1) Where an Inspector believes that any building or sitework does not comply with the Building Act 1991, the Inspector shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.

(2) For the purposes of this section, the terms "building", "sitework", and "territorial authority" have the meanings ascribed to them by the Building Act 1991.]

This section was inserted by s. 92 (1) of the Building Act 1991.

[10. Restriction on disposal and export of certain butter and cheese---(1) Except in accordance with a permit in that behalf given by [[the chief executive of the Ministry of Agriculture and Forestry]], no person shall send to any grading store for the purpose of being graded [[for export]] or export or attempt to export any butter which contains more than 16 percent of water or less than 80 percent of butterfat or any cheese of which the water-free substance consists of less than 50 percent of fats wholly derived from milk.

[[ (1A) The [chief executive] shall not give a permit pursuant to subsection (1) of this section unless he is satisfied that the laws of the country to which the butter or cheese is intended to be exported would not be contravened by its importation.]]

(2) Any permit given under subsection (1) of this section shall not apply in respect of whey butter or creamery butter and any such permit shall be subject to such conditions as may be prescribed therein.

(3) Where any butter or cheese is sent to a grading store in contravention of this section, the owner of the butter or cheese shall cause the same to be treated and disposed of in such manner as an Inspector may direct, or the Inspector may, at the expense of the owner, cause the same to be treated and disposed of in such manner as he thinks fit.

(4) Any person who sends any butter or cheese to a grading store or who exports or attempts to export any butter or cheese in contravention of this section, and any person who fails to comply with a direction of an Inspector under subsection (3) of this section, commits an offence against this Act.]

This section was substituted for the original s. 10 by s. 2 of the Dairy Industry Amendment Act 1954.



In subs. (1) the reference to the chief executive of the Ministry of Agriculture and Forestry was substituted by s. 5 (1) (a) of the Ministries of Agriculture and Forestry (Restructuring) Act 1977 for a reference to the chief executive of the Ministry of Agriculture and Fisheries, as changed by s. 6 (1) (a) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 for a reference to the Director-General of Agriculture and Fisheries which had been substituted for a reference to the Director-General of Agriculture by s. 3 (6) (c) of the Ministry of Agriculture and Fisheries Amendment Act 1972, and the words "for export" were inserted by s. 3 (1) of the Dairy Industry Amendment Act 1976.

Subs. (1A) was inserted by s. 3 (2) of the Dairy Industry Amendment Act 1976.

In subs. (1A) the reference to the chief executive has been substituted in this reprint for a reference to the Director-General pursuant to s. 5 (1) (a) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997.

11. Duties of owner where stock diseased, or person affected with disease---In every case where disease appears in any stock in or about a dairy, or where any person living or working in or about a dairy is found to be affected with any such contagious or infectious disease as is referred to in section 6 hereof, the following provisions shall apply:

(a) The owner or occupier of the dairy shall forthwith draft out and at all times keep separate all the diseased stock from the stock not suffering from disease:

(b) He shall also at all times prevent the milk or cream obtained from the diseased stock being mixed with other dairy produce, or being in any way sold or used for food:

(c) He shall also, as far as practicable, isolate and keep isolated every person so affected with any such contagious or infectious disease.

Cf. 1908, No. 37, s. 9

12. Inspector may require certain information---Whenever requested by an Inspector so to do, the owner or person in charge of a dairy shall---

(a) Furnish to the Inspector a list of the customers or other persons supplying milk or cream to that dairy, or supplied with dairy produce from that dairy; and also

(b) Furnish to the Inspector any personal assistance and information in his power to enable the Inspector to search for and discover any source of contamination, infection, or disease to which any stock or dairy produce may be exposed.

Cf. 1908, No. 37, s. 10

13. Certain nuisances not allowed near dairy---(1) A person shall not keep, house, or pen pigs, or permit them to be kept, housed, or penned, or to wander or be brought within [45 metres] of any dairy within the meaning of paragraph (a) of the definition of "dairy" in section 2 hereof, or within that distance of the open water supply of any such dairy.

(2) A person shall not permit any fowlhouse, manure heap, cesspool, or closet to be within [10 metres] of any such dairy as last aforesaid or of any enclosed yard or building where cows are kept.

(3) A person owning or having charge of stock or pigs shall not permit drainage therefrom to flow into or (unless in a properly enclosed drain) within [45 metres] of any such dairy as last aforesaid, or the open water supply thereof, or any enclosed yard or building where cows are kept.

Cf. 1908, No. 37, s. 12; 1926, No. 35, s. 4

In subss. (1) and (3) the expression "45 metres" was substituted for the words "fifty yards", and in subs. (2) the expression "10 metres" was substituted for the words "thirty feet", by s. 2 (1) of the Dairy Industry Amendment Act 1975.

#### Sale and Exportation of Dairy Produce

14. Certain dairy produce not to be sold or exported---A person shall not sell, or offer or expose for sale, or export or attempt to export, any dairy produce which---

(a) Is affected or infected with disease; or

(b) Has been near to or in contact with any person, stock, or thing affected or infected with disease; or

- (c) For any other reason is likely to endanger the public health; or
  - (d) Is marked with any other weight than the true net weight thereof; or
  - (e) Is contained in any package marked with any weight other than the true net weight of the dairy produce contained therein; or
  - (f) Is contained in any package marked with any grade mark or brand not properly pertaining to the contents; or
  - (g) Has been condemned by an Inspector.
- Cf. 1908, No. 37, s. 13

[15. Dairy produce not to be adulterated---(1) Except as provided in section 15A of this Act, no person shall manufacture dairy produce out of any substance that is not milk or cream.

(2) No person shall knowingly sell any dairy produce manufactured otherwise than in accordance with subsection (1) of this section.

[[15A. Certain ingredients permitted--- (1) This section applies in respect of any dairy produce that is intended to be exported and is not sold in New Zealand except in the course of, or for the purpose of, export.

(2) Any person may, with the written consent of the chief executive of [the Ministry of Agriculture and Forestry], and subject to the conditions (if any) specified in the consent, mix with, add to, or use in the manufacture of any dairy produce (being dairy produce to which this section applies), during or after its manufacture, any additive, constituent, or ingredient specified in the consent.

(3) In giving any consent pursuant to this section, the chief executive of [the Ministry of Agriculture and Forestry], shall take into account New Zealand's obligations under any international treaty, agreement, convention, or protocol.]]

This section was substituted for the former s. 15A (as substituted by s. 2 (1) of the Dairy Industry Amendment Act 1989) by s. 27 of the Ford Amendment Act 1996.

In subss. (2) and (3), ss. 2 and 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 changed the Ministry of Agriculture to the Ministry of Agriculture and Forestry (referred to as the new Ministry).

[15B. Dairy produce not to be mislabelled---(1) In this section, "labelling", in relation to any substance, means---

- (a) Describing or representing the substance (by words, pictures, or devices) on any label attached to the substance, any document or other item associated with the substance, or any container containing the substance; or
- (b) Permitting any other person to label the substance;---

and "to label" has a corresponding meaning.

- (2) No person shall knowingly---
- (a) Label any dairy produce that is intended to be exported, in a way that is likely to confuse or mislead a reasonable person in any country outside New Zealand where it is likely to be sold as to the kind of dairy produce it is; or
- (b) Label any substance intended to be exported that is not dairy produce, in a way that is likely to confuse a reasonable person in any country outside New Zealand where it is likely to be sold as to whether or not it is dairy produce; or
- (c) Label any substance intended to be exported that is not dairy produce, in a way that is likely to lead a reasonable person in any country outside New Zealand where it is likely to be sold to believe that it is dairy produce.]

Ss. 15, 15A, and 15B were substituted for the original s. 15 by s. 2 (1) of the Dairy Industry Amendment Act 1989.

16. Milk not to be sold if tainted or impure---A person shall not sell or supply to a dairy for any purpose, or to any person for human consumption,---

(a) Any milk or cream which is tainted; or

(b) Any milk or the cream from any milk which has been drawn from a cow that is suspected or known to be diseased, or that has calved within 4 clear days before the day on which the milk was so drawn; or

(c) Any milk which is not pure milk, except in cases where that person gives to the person to whom the milk is sold or supplied a statement in writing that it is not pure milk.

Cf. 1908, No. 37, s. 15

17. Milk to be cooled or aerated before sale---A person shall not supply or sell to any dairy any milk unless that milk has been properly cooled, in manner prescribed, immediately after being drawn from the cow, and a person shall not supply or sell to any dairy any cream unless that cream has been properly cooled, in manner prescribed, immediately after being separated.

Cf. 1908, No. 37, s. 16; 1926, No. 35, s. 5

18. Dairy produce not to be stored in room used for domestic purposes, etc.---Dairy produce intended for sale or supply for profit shall not be deposited or stored by any person in any room used for domestic purposes, or in any place calculated to render that produce unwholesome or injurious to health.

Cf. 1908, No. 37, s. 17

19. Purchaser may take sample of milk for analysis---At the request of any person to whom any milk or cream is offered or supplied by way of sale (hereinafter called the purchaser) the person offering or supplying the same (hereinafter called the seller) shall allow the purchaser to take a sample thereof for analysis by an Analyst under this Act:

Provided that the purchaser when taking the sample states that it is taken for analysis.

Cf. 1908, No. 37, s. 18

20. Procedure when sample taken---Forthwith upon taking the sample, the purchaser, in the presence of the seller, shall, if the seller so requires,---

(a) Divide the sample into 2 equal or nearly equal portions, and enclose each portion in a clean bottle:

(b) Seal one bottle with his own seal, and permit the seller to seal the other with his own seal:

(c) Retain for analysis the bottle sealed by the seller, and permit the seller to retain the other sealed bottle.

Cf. 1908, No. 37, s. 19

#### Milk and Cream for Manufacture

21. Testing of milk or cream purchased for manufacture---(1) Where milk or cream purchased for the manufacture of dairy produce is to be paid for according to the percentage of butterfat contained therein, that percentage shall be determined by the Babcock, Gerber, or other prescribed test.

(2) The test shall be carried out by the owner of the dairy factory purchasing the milk or cream in such manner and at such times as are prescribed.

(3) For the purposes of this Act milk or cream shall be deemed to be purchased by the owner of a dairy factory if it is received and accepted for the manufacture of dairy produce at the factory.

Cf. 1922, No. 41, s. 3

22. Certified statement of overrun to be furnished to suppliers---(1) Not later than 2 months after the close of each financial year every owner of a butter factory or cheese factory shall forward to each person from whom he has purchased milk or cream during that year a statement, certified as correct by [a chartered accountant (within the meaning of section 19 of the Institute of Chartered Accountants of New Zealand Act 1996)], and not in the employ of the owner in any capacity other than that of auditor, showing for the year,---

(a) The weight of butter (correct to 4 places of decimals) made from each [kilogram] of butterfat used for the manufacture of butter:

(b) The percentage which the weight of unsalted butter manufactured bears to the total weight of butter manufactured:

(c) The weight of cheese (correct to 2 places of decimals) made from each [kilogram] of butterfat used for the manufacture of cheese.

(2) In calculating for the purposes of the above-mentioned statement the weight of cheese manufactured at a dairy factory the weight as ascertained at the factory shall be taken as the correct weight:

Provided that, in respect of that portion of the output of the factory which is exported, the factory weight shall be corrected by reference to check weights (if any) supplied to the owner of the factory by a Grader under this Act in respect of each lot of cheese forwarded for grading prior to export.

(3) The date of the close of the financial year of a dairy factory shall be determined in each year by the owner of the factory with reference to the close of the dairying season, but not later in any case than the 31st day of August in any year. The financial year shall be the period from the close of one financial year to the close of the next financial year.

Cf. 1922, No. 41, s. 4

In subs. (1) the words in the first set of square brackets were substituted for the former words by s. 23 of the Institute of Chartered Accountants of New Zealand Act 1996.

In subs. (1) (a) and (c) the word "kilogram" was substituted for the word "pound" by s. 2 (2) of the Dairy Industry Amendment Act 1975.

23. Supplier may ask for independent investigation---(1) Within 6 months after the receipt of the statement referred to in the last preceding section any person from whom milk or cream has been purchased by the factory may make application in the prescribed manner to [the Minister of Agriculture and Forestry] for an independent investigation into the correctness of the statement.

(2) On receipt of any such application, and on approved security being lodged by the applicant to cover the cost of the investigation, the Minister may, by writing, request the Audit Office to make an examination of the books and accounts of the factory, and to report as to the correctness or otherwise of the particulars set out in the statement and as to the amount of error, if any, and the Audit Office shall so soon as practicable thereafter proceed to make the examination accordingly.

Cf. 1922, No. 41, s. 5

In subs. (1) the reference the Minister of Agriculture and Forestry has been substituted in this reprint pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for a reference to the Minister of Agriculture and Fisheries which was substituted for a reference to the Minister of Agriculture by s. 3 (6) (a) of the Ministry of Agriculture and Fisheries Amendment Act 1972.

24. Powers of Audit officer in conduct of investigation---(1) On the request of the Audit officer appointed to conduct the investigation it shall be the duty of the owner of the butter factory or cheese factory, and of all servants and agents of the owner, to produce for his examination all books and documents in their custody or control.

(2) The Audit officer may examine on oath the owner of the factory, or any of his servants or agents, or any other persons, as to the business of the factory, and may administer an oath accordingly.

(3) Every person who refuses to comply with any lawful request made by the Audit officer or to answer any lawful question put by him in the course of the investigation is liable for each offence to a fine of [\$100].

Cf. 1922, No. 41, s. 6

25. Cost of investigation---The cost of any such investigation shall be borne by the applicant for the investigation:

Provided that if the investigation by the Audit Office discloses an error of more than one-half percent in the particulars set out in the statement regarding the weight of butter or cheese made from each [kilogram] of butterfat the cost of the investigation shall be borne by the owner of the factory issuing the statement, and the fee of the Audit Office shall be recoverable from him as a debt due to the Crown.

Cf. 1922, No. 41, s. 7

In the proviso the word "kilogram" was substituted for the word "pound" by s. 2 (2) of the Dairy Industry Amendment Act 1975.

#### Export of Dairy Produce

26. Appointment of ports and stores for export of dairy produce---The Governor-General may from time to time, by Order in Council gazetted,---

(a) Appoint any specified ports to be the only ports at which dairy produce, or any specified class or description thereof, may lawfully be exported, either generally or to any specified country or colony:

(b) Appoint fit buildings to be stores for the storage, cooling, or freezing of dairy produce prior to export:

(c) Prescribe the mode in which and the conditions subject to which those stores shall be used.

Cf. 1908, No. 37, s. 20

27. Conditions under which dairy produce may be exported---(1) Dairy produce shall not be shipped or placed on board any ship for export from New Zealand unless---

(a) It is in all respects sound, in good condition, and free from disease; nor unless

(b) The requirements of this Act relating to that produce, and to the inspection, grading, and marking thereof, have been duly complied with; nor unless

(c) The ship is in all respects in a fit and proper condition to receive the dairy produce, and also is properly equipped with all appliances and requisites necessary for the safe carriage thereof in good order and condition through the whole of the intended voyage.

(2) Nothing in this section shall apply to dairy produce shipped for the sole use of the passengers and crew of the ship on the intended voyage.

Cf. 1908, No. 37, s. 21

#### General

28. Statistics---The owner or person in charge of a dairy shall from time to time supply to the Minister such statistics and information relating to the dairy as are prescribed or as the Minister requests.

Cf. 1908, No. 37, s. 11

29. Dairy companies may make charge in respect of assignments or orders on milk cheques, etc.---(1) Any dairy company may make an annual charge to cover the cost of accounting in respect of any assignments given or orders made by a supplier on money payable to him for milk, cream, or other dairy produce supplied by him to the company.

(2) No such charge shall in the case of any supplier exceed, in respect of [each assignment or order] affecting money payable for produce supplied by him during any financial year of the company, the sum of [\$2], or 2[1/2] percent of all money paid by the company, on account of the supplier, pursuant to any [such assignment or order], whichever amount is the less.

(3) The amount of any such charge may, in the discretion of the company, be deducted from the amount payable in terms of the assignment or order, and all money so deducted may be recovered from the supplier by the person entitled under the assignment or order.

(4) A charge in accordance with this section may be made in respect of money paid after the passing of this Act in terms of any assignment or order given or made before the passing of this Act.  
Cf. 1933, No. 51, s. 3

In subs. (2) the words "each assignment or order" were substituted for the words "all assignments or orders", and the words "such assignment or order" were substituted for the words "such assignments or orders", by s. 2 (a) and (b) of the Dairy Industry Amendment Act 1955.

#### Miscellaneous

30. Bulk milk collection by dairy companies---Where any dairy company has, either before or after the commencement of this Act, with the consent of a supplier to the company, erected or placed any milk vat or any appliance that is accessory thereto [or any appliance for the cooling of water or for controlling the temperature of milk] on any land occupied by the supplier, then, after the commencement of this Act, so long as the company has not done or suffered anything which deprives it of its ownership of the vat or appliance,-

--  
(a) The vat or appliance shall remain the property of the company and shall be deemed not to be in the possession, order, or disposition of the supplier or of any person other than the company who would otherwise be a bailee thereof:

(b) The vat or appliance shall not in any circumstances become a fixture to the land on which it is erected or placed as aforesaid; and the company may remove the vat or appliance without being liable to pay compensation to the owner of the land or any other person:

(c) The company may, at all reasonable times, by its servants and agents, enter on the land on which the vat or appliance is erected or placed as aforesaid for the purpose of inspecting, testing, repairing, altering, cleaning, or removing the vat or appliance:

(d) If the occupier for the time being of the land on which the vat or appliance has been erected or placed as aforesaid is not for the time being a supplier of the company, he may, on giving one month's notice in writing to the company, require the company to remove the vat or appliance from the land:

(e) The ownership of any such vat or appliance shall be deemed to be an interest in land for the purposes of section 137 of the Land Transfer Act 1952, but for no other purpose.

Cf. 1951, No. 81, s. 7

The words in square brackets were inserted by s. 4 of the Dairy Industry Amendment Act 1954.

31. General penalty for breaches of Act---(1) Every person shall be liable on summary conviction to a fine not exceeding [\$100] who, directly or indirectly, by himself, his agent, or servant,---

(a) Resists or wilfully obstructs any officer under this Act in the performance of his duty; or

(b) Refuses to give information, or gives false information, in answer to any inquiry made by any such officer in the performance of his duty; or

(c) Exports or attempts to export, or is concerned in exporting, any dairy produce in breach of any of the provisions of this Act; or

(d), (e) Repealed by s. 3 of the Dairy Industry Amendment Act 1954.

(f) Knowingly makes any statement required by this Act which is false in any material particular; or

(g) Commits any breach of any of the provisions of this Act for which no penalty is provided by this Act elsewhere than in this section.

(2) Where any duty or obligation imposed on any person by this Act is also imposed on him by any other Act, compliance with either Act shall be deemed to be compliance with both.

(3) In any case where any offence under this Act is also an offence under any other Act, proceedings may be taken under either Act, but no person shall be punished twice for the same offence.

Cf. 1908, No. 37, s. 22; 1915, No. 48, s. 2 (1); 1922, No. 41, s. 9; 1926, No. 35 s. 6 (1)

32. Regulations---(1) The Governor-General may from time to time, by Order in Council gazetted, make regulations for all or any of the following purposes:

### Registration and Licensing

- (a) For the registration of dairies, or of any specified class or description of dairy:
- (b) For prescribing conditions subject to which applications for the registration of dairies may be granted, including a condition requiring the prior approval by the Minister of the site, buildings, and equipment of any dairy:
- (c) For the licensing or registration of persons carrying on the manufacture or sale of dairy produce, or of any specified class or description of dairy produce:
- (d) For the registration of marks, stamps, brands, and labels used for dairy produce, or for any specified class or description of dairy produce:
- [(dd) Regulating the processing of milk and requiring persons engaged in the processing of milk to be the holders of certificates of competency under the regulations:]

### Inspection

- (e) For the inspection of cows kept for the purpose of supplying milk to dairies, and of other stock kept upon or about a dairy:
- (f) For the inspection of dairies, and of the machinery, utensils, appliances, packages, and conveyances used in or about dairies or in connection with the manufacture, deposit, or carriage of dairy produce:
- [(ff) For the marking and method of marking for identification purposes of utensils used in or about dairies or in connection with the manufacture, deposit, or carriage of dairy produce in cases where the use of the utensils for dairy produce has been forbidden under section 7 of this Act:]
- (g) For the inspection of dairy produce:
- (h) For prescribing the powers and duties of Inspectors:

### Hygiene

- (i) For the sanitation of dairies, and of the machinery, utensils, appliances, packages, and conveyances used in or about dairies or in connection with the manufacture, deposit, or carriage of dairy produce:
- (j) For preventing the infection or contamination of dairy produce:
- (k) For the pasteurisation or sterilisation of dairy produce at dairy factories, or at any specified class of dairy:
- (l) For preventing the pollution of the water supply of dairies:
- (m) For preventing the manufacture, sale, consumption, or export of infected dairy produce, or the manufacture of dairy produce from infected milk or cream:
- (n) For preventing or limiting the use of preservatives or other ingredients in the manufacture of dairy produce:
- (o) For prescribing standards of quality, purity, and composition in respect of any dairy produce intended for export or of any ingredient or component part thereof:

### The General Conduct of Dairy Factories

- (p) For the grading, packing, marking, stamping, branding, and labelling of dairy produce:
- (q) For preventing the pollution of streams or rivers by any dairy or dairy factory:
- (r) For regulating the sampling, testing, and weighing of milk or cream purchased by owners of dairy factories:
- [(rr) For regulating the sampling, testing, and grading of milk or cream delivered to or received at milk treatment stations:]
- (s) For prescribing records to be kept or returns to be furnished by owners of dairy factories:
- (t) For regulating the supply of milk or cream to dairy factories, and, in particular,---
  - (i) Prohibiting any person who in any season has supplied any dairy factory with milk or cream produced in his dairy from ceasing during that season (unless he ceases to be a producer) to supply milk or cream to that factory while it is prepared to receive the same; or
  - (ii) Prohibiting any such person as aforesaid from transferring any part of his supply from one dairy factory to any other factory during any season; or
  - (iii) Restricting, to such extent as may be deemed necessary or advisable in the interests of the dairy industry, the right of any supplier during any season to transfer his supply, or any part of his supply, from one dairy factory to another; or

(iv) Prohibiting the proprietor or manager of any dairy factory from receiving any milk or cream from any supplier in breach of any regulations made under the authority of the foregoing provisions of this paragraph:

(u) Requiring owners of dairy factories to pay different prices for different grades of milk or cream supplied to dairy factories for manufacture, and fixing the minimum amounts by which the prices shall vary for the different grades. Regulations in regard to the grading of cream may provide for a classification of cream according to the percentage of butterfat therein, and the power herein contained to require the payment of different prices according to grade and to fix the minimum variation in the prices shall extend to include a power to require the payment of different prices according to the classification of the cream, and to fix the minimum variation in such prices:

#### Relating to 2 or More of the Matters Aforesaid

(v) For the export of dairy produce, and the inspection and sanitation of ships used for the export of dairy produce:

(w) For farm dairy instruction and inspection for the purpose of improving and maintaining the quality of milk and cream supplied for the manufacture of dairy produce; and imposing levies on persons carrying on the manufacture of dairy produce, or on any class of those persons, for the purpose of defraying the cost of such instruction and inspection, or any part thereof:

(x) For the exemption, either wholly or partially, and either absolutely or conditionally, of any person or class of persons from any of the requirements of any regulations made for any of the purposes specified in the last preceding paragraph:

#### Administration and General

(y) For prescribing the matters in respect whereof fees are payable under this Act, and fixing the amounts of those fees:

(z) For prescribing the form of licences, certificates, notices, and other documents under this Act:

[(za) For---

(i) Prescribing the form and content of the annual reports, balance sheets, accounts, and other statements of dairy companies (including companies registered or entitled to be registered under the Co-operative Dairy Companies Act 1949), and dairy factories:

(ii) Regulating the way in which such reports, balance sheets, accounts, and statements are to be dealt with:

(iii) Prescribing rights and duties of auditors in relation to such reports, balance sheets, accounts, and statements, and in relation to the annual meetings of such companies and factories:]

(aa) For imposing levies on persons carrying on the manufacture of dairy produce or on any class of those persons, for the purpose of defraying the cost of grading any such dairy produce:

(bb) For imposing fines not exceeding [\$100] for the breach of any such regulation:

(cc) For prescribing such other matters as are contemplated or desirable for giving full effect to sections 21 to 25 hereof, and any other matters for which regulations are contemplated or required by this Act, or which the Governor-General deems necessary for the efficient administration thereof.

(2) Any person who is aggrieved by the operation of any regulations under the provisions of paragraph (t) of subsection (1) of this section in respect of the supply of milk or cream to any dairy factory shall have a right of appeal to a [District Court Judge] exercising jurisdiction in the locality in which the appellant's dairy is situated.

(3) The determination of the [District Court Judge] on any appeal under subsection (2) of this section shall be final.

[(4) Regulations made under this Act may provide for the promulgation from time to time by the Director of circulars setting out general criteria for the drawing up, accomplishment, demonstration, carrying on, or provision for any act, plan, proposal, matter, system, process, or thing.

(5) Where, pursuant to regulations made under this Act, any act, plan, proposal, matter, system, process, or thing must be---



(a) Approved by the Director or an Inspector, it shall be deemed so to have been approved if it is in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to subsection (4) of this section and for the time being in force:

(b) Accomplished, demonstrated, carried on, or provided for to the satisfaction of the Director or an Inspector, it shall be deemed so to have been accomplished, demonstrated, carried on or provided for if it has been accomplished, demonstrated, carried on, or provided for in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to the said subsection and for the time being in force:

(c) Accomplished, demonstrated, carried on, or provided for to an extent that, in the opinion of the Director or an Inspector, meets or tends to meet some particular standard, or achieves or tends to achieve some particular result, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it has been accomplished, demonstrated, carried on, or provided for in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to the said subsection and for the time being in force.

(6) The powers of the Director or an Inspector to approve or be satisfied of, or to take any action a prerequisite to the taking of which is that he have a particular opinion about, any act, plan, proposal, matter, system, process, or thing shall not be limited or affected by any matter contained in a circular promulgated pursuant to subsection (4) of this section.]

Cf. 1908, No. 37, s. 23; 1915, No. 48, s. 3; 1922, No. 41, s. 8; 1926, No. 35, s. 7; 1933, No. 51, ss. 2 (f), 5; 1938, No. 10, s. 2; 1948, No. 77, s. 10

In subs. (1), paras. (dd), (ff), and (rr) were inserted by s. 3 (1), (2), and (3) of the Dairy Industry Amendment Act 1955, and para. (za) was inserted by s. 3 (1) of the Dairy Industry Amendment Act 1980.

In subss. (2) and (3) the reference to a District Court Judge was substituted for a reference to a Magistrate by s. 18 (2) of the District Court Amendment Act 1979.

Subss. (4)-(6) were added by s. 5 of the Dairy Industry Amendment Act 1976.

For regulations, see S.R. 1990/288, S.R. 1990/289, S.R. 1990/290 and S.R. 1991/1.

33. Regulations as to dairy factory managers---(1) In addition to the matters specified in the last preceding section, and without in any way limiting the generality of the authority to make regulations conferred by that section, regulations may be made thereunder for all or any of the following purposes, namely:

(a) For prescribing the qualifications of persons competent to be employed as managers of dairy factories, or as managers of dairy factories of any specified class or specified classes:

(b) For the registration of persons competent to be employed as managers of dairy factories, or as managers of dairy factories of any specified class or specified classes as aforesaid, and for the rectification of the register from time to time as occasion may require:

(c) For prescribing the grounds upon which the names of registered persons may be removed from the register:

(d) For the appointment of a Registration Board, and defining the powers of the Board with respect to the registration of persons competent to be employed as dairy factory managers:

(e) For authorising the Board to conduct examinations of persons desirous of being so registered and to appoint examiners for that purpose:

(f) For prohibiting or restricting the appointment or employment as the manager [or assistant manager] of any specified class of dairy factory of any person who is not registered in accordance with regulations under this section in respect of dairy factories of that class:

(g) For prescribing the procedure to be adopted in respect of appeals made in accordance with subsection (4) of this section.

(2) There shall be paid to the members of the Registration Board appointed pursuant to paragraph (d) of subsection (1) of this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Board were a statutory Board within the meaning of that Act.

[(3) Every person who, immediately before the commencement of the Dairy Industry Amendment Act 1976,---

(a) Was entitled to be registered as the manager of a dairy factory of any class shall continue so to be entitled:

(b) Was employed as the manager of a milk station shall be entitled, without further evidence of his qualification, to be registered, in accordance with regulations made under this Act, as competent to be employed as manager of a milk station of the same class:

(c) Was employed as the assistant manager of a dairy factory shall, notwithstanding any regulations made under this Act, be entitled to be employed as the assistant manager of a dairy factory of the same class.]

(4) Any person who is aggrieved by the operation of any regulations made under the provisions of subsection (1) of this section in respect of the registration of persons competent to be employed as dairy factory managers, or in respect of the employment of persons as dairy factory managers or as managers of any specified class of dairy factory, shall have a right of appeal to a Board of Appeal, consisting of a [District Court Judge] and 2 assessors, of whom one shall be appointed by the appellant and one shall be appointed by the Minister or by some person or authority nominated by him for the purpose.

(5) The determination of the Appeal Board on any appeal under subsection (4) of this section shall be final.

(6) There shall be paid out of money appropriated by Parliament for the purpose to any assessor appointed under subsection (4) of this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such assessor were a member of a statutory Board within the meaning of that Act.

[(7) For the purposes of this section a milk station shall be deemed to be a dairy factory.]  
Cf. 1933, No. 51, ss. 2, 4, 5; 1940, No. 18, s. 7; 1951, No. 79, s. 10 (1)

In subs. (1) (f) the words "or assistant manager" were inserted by s. 6 (1) of the Dairy Industry Amendment Act 1976.

Subs. (3) was substituted for the original subs. (3) by s. 6 (2) of the Dairy Industry Amendment Act 1976.

In subs. (4) the reference to a District Court Judge was substituted for a reference to a Magistrate by s. 18 (2) of the District Court Amendment Act 1979.

Subs. (7) was added by s. 6 (3) of the Dairy Industry Amendment Act 1976.

34. Application of fees and fines---All fees and fines received or recovered under this Act shall be paid into [the Crown Bank Account], and all expenses incurred in the administration of this Act shall be paid out of money to be appropriated by Parliament.

Cf. 1908, No. 37, s. 24

The reference to the Crown Bank Account was substituted by s. 83 (7) of the Public Finance Act 1989 for a reference to the Consolidated Revenue Account which was substituted for a reference to the Consolidated Fund by s. 4 (4) of the Public Revenues Amendment Act 1963.

35. Repeals and savings---(1) The enactments specified in the Schedule hereto are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

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**SCHEDULE**  
Section 35 (1)

Enactments Repealed

- 1908, No. 37---The Dairy Industry Act 1908. (1931 Reprint, Vol. I, p. 69).  
 1913, No. 76---The Appropriation Act 1913: Sections 22 and 23.  
 1915, No. 48---The Dairy Industry Amendment Act 1915. (1931 Reprint, Vol. I, p. 93.)  
 1922, No. 41---The Dairy Industry Amendment Act 1922. (1931 Reprint, Vol. I, p. 94.)  
 1924, No. 42---The Dairy Industry Amendment Act 1924. (1931 Reprint, Vol. I, p. 96.)  
 1926, No. 35---The Dairy Industry Amendment Act 1926. (1931 Reprint, Vol. I, p. 98.)  
 1933, No. 51---The Dairy Industry Amendment Act 1933.  
 1938, No. 10---The Dairy Industry Amendment Act 1938.  
 1940, No. 18---The Statutes Amendment Act 1940: Section 7.  
 1948, No. 77---The Statutes Amendment Act 1948: Section 10.  
 1951, No. 79---The Fees and Travelling Allowances Act 1951: The Second Schedule, so far as it relates to the Dairy Industry Amendment Act 1933.  
 1951, No. 81---The Statutes Amendment Act 1951: Section 7.

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Amending Act/Rule(s)

- 1 The Dairy Industry Amendment Act 1954  
 6 The Dairy Industry Amendment Act 1955  
 10 The Dairy Industry Amendment Act 1975  
 14 The Dairy Industry Amendment Act 1976  
 21 The Dairy Industry Amendment Act 1980  
 25 The Dairy Industry Amendment Act 1989  
 28 Margarine Act 1908 repealed