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Dairy Industry Act 1994

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Dairy Industry Act 1994

An Act to reduce regulation in the dairy industry, to facilitate the economic development of the dairy industry for the benefit of Tasmania and to repeal certain Acts

[Royal Assent 26 May 1994]

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

PART 1 - Preliminary

1. Short title

This Act may be cited as the Dairy Industry Act 1994 .

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act –

Authority means the Tasmanian Dairy Industry Authority established under section 5 ;

authorized officer means a person appointed under section 45 ;

Code of Practice means a Code of Practice made under Part 5 ;

dairy farm means any premises where cows are kept or milked for the purpose of producing milk for profit or sale;

dairy farmer means the owner of a dairy farm;

dairy farmer's licence means a licence issued under section 22(a) ;

dairy premises means –

- (a) a dairy farm; or
- (b) milk manufacturing premises; or
- (c) milk processing premises;

dairy produce means –

- (a) milk and liquid milk products; or
- (b) dried milk and dried milk products; or
- (c) condensed milks; or
- (d) cream and cream products; or
- (e) butter, butter products, dairy blend and dairy spreads; or
- (f) cheese and cheese products; or
- (g) yoghurt and yoghurt products; or
- (h) any other product or class of products declared to be dairy produce under subsection (2) (a) ;

flavoured milk means milk as a liquid containing prescribed components;

licence means a licence in force under this Act;

manufacture includes to prepare or process;

manufacturer means the owner of milk manufacturing premises;

manufacturer's licence means a licence issued under section 22(c) ;

manufacturing milk means milk which is not used or intended to be used as market milk;

market milk means –

- (a) milk for sale for human consumption as a liquid; or
- (b) modified milk, skim milk and flavoured milk for sale for human consumption as a liquid; or

(c) cream for sale for human consumption as a liquid; or

(d) any dairy produce declared to be market milk under subsection (2) (b) ;

member means a member of the Authority;

milk means –

(a) milk derived from cows; and

(b) milk declared by the Minister to be milk for the purposes of Parts 3 , 5 or 6 ;

milk manufacturing premises means any premises where dairy produce, other than market milk, is manufactured or packed;

milk processing premises means any premises where market milk is pasteurized or packed;

modified milk means milk as a liquid containing prescribed components;

owner includes –

(a) the occupier or person apparently in charge of any premises; and

(b) the agent or manager of an owner of premises; and

(c) in the case of a body corporate or unincorporate, the manager, secretary or person who, in the opinion of the Authority, is able to control the affairs of that body;

premises includes –

(a) a building or part of a building; and

(b) land whether or not belonging to a building; and

(c) plant, machinery or equipment used for the production of milk or dairy produce;

processor means the owner of milk processing premises;

processor's licence means a licence issued under section 22(b) ;

sell includes –

(a) offer or expose for sale; and

(b) keep or have in possession for sale; and

(c) barter or exchange; and

(d) supply for profit; and

(e) agree to sell; and

(f) distribute, send, forward or deliver for sale;

skim milk means milk from which milk fat has been removed;

vendor's licence means a licence issued under section 22(d) .

(2) The Minister, by notice published in the *Gazette*, may declare –

(a) that any product or class of products derived from milk is to be treated as dairy produce; or

(b) that any dairy produce is to be treated as market milk; or

(c) that milk derived from sheep or goats is milk for the purposes of Parts 3 , 5 or 6 .

(3) All milk sold to consumers is to be taken as market milk unless the milk is clearly labelled or identified as intended for consumption by animals.

4. Act to bind Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 - The Tasmanian Dairy Industry Authority

Division 1 - Establishment of Authority

5. Establishment of Authority

There is established the Tasmanian Dairy Industry Authority.

6. Membership of Authority

- (1) The Authority consists of 5 members appointed by the Minister of whom –
 - (a) 2 are persons with a wide practical knowledge of the dairy farming industry, selected from nominations submitted by an organization representing dairy farmers; and
 - (b)
 - (c) two are persons with a wide practical knowledge of the milk processing or the milk manufacturing industry; and
 - (d) one is a person who is the chairperson of the Authority.
- (2) If a nomination is not made under subsection (1) when required, the Minister may appoint a suitable person without such a nomination.
- (3) Schedule 1 has effect with respect to membership of the Authority.
- (4) Schedule 2 has effect with respect to meetings of the Authority.

7. Deputy members

- (1) The Minister may appoint a person with the same or similar knowledge as a member of the Authority to be the deputy of that member in that member's temporary absence.
- (2) A deputy member may act as a member of the Authority and while so acting has the same powers and functions as the member for whom he or she is the deputy.
- (3) In any proceedings, proof is not required of –
 - (a) the circumstances in which a person is appointed as a deputy member; or
 - (b) the appointment of a deputy member.
- (4)

8. Ministerial control and directions

- (1) The Authority is subject to the control of the Minister.
- (2) The Minister may give any directions to the Authority in respect of any matter under this Act.
- (3) The Authority is to include a summary of any direction given to it by the Minister in the annual report prepared under section 8E for the year to which the direction relates.
- (4) If the Authority does not comply with any direction given by the Minister, the Minister, by notice in writing, may require the Authority to comply with the direction.

8A. Accounting records

- (1) The Authority is to keep accounting records that correctly record and explain its transactions and financial position.
- (2) The records are to be kept in a manner that –
 - (a) allows true and fair accounts of the Authority to be prepared; and
 - (b) allows its accounts to be conveniently and properly audited or reviewed; and

(c) subject to any contrary direction of the Treasurer, complies with Australian Accounting Standards; and

(d) complies with any direction of the Minister.

8B. Financial statements

(1) The Authority is to prepare and forward to the Auditor-General a copy of its financial statements for each financial year in accordance with the Audit Act 2008 .

(2) Financial statements in respect of a financial year are to include any other financial information required to be included by a direction given under subsection (4) .

(3) The financial statements are to –

(a) comply with any direction given under subsection (4) ; and

(b)

(c) be signed or certified as specified in any direction under subsection (4) .

(4) The Treasurer may give any written directions to the Authority in respect to the form and contents of the financial statements the Treasurer considers appropriate.

8C. Extension of time for preparing financial statements

(1) Within 45 days after the end of the financial year, the Authority may apply to the Treasurer for an extension of the period within which it must prepare and provide the financial statements of the Authority.

(2) An application is to –

(a) include detailed reasons for requiring the extension; and

(b) specify the day by which the Authority estimates that it can provide the financial statements.

(3) The Treasurer may –

(a) refuse to grant the application; or

(b) grant the application and extend the period as the Treasurer considers appropriate.

(4) The Treasurer is not to grant an extension that would prevent the Minister from tabling an annual report in accordance with section 8F(1) .

(5) Within 7 days after being notified of an extension, the Authority is to notify the Minister of the details of the extension.

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8E. Annual report

(1) The Authority is to prepare an annual report for each financial year.

(2) The annual report is to include the following information and documents:

(a) the financial statements of the Authority for the financial year to which the annual report relates;

(b) a copy of the opinion of the Auditor-General in respect of the financial statements of the Authority provided under section 19 of the Audit Act 2008 ;

(c) a report on the operations of the Authority during that financial year;

(d) the details of any extension granted under section 8C ;

(e) any information the Minister may require relating to the Authority and its employees;

(f) any other information the Minister may require;

(g) any other information the Authority considers is appropriate or necessary to properly inform the Minister and Parliament as to the performance and progress of the Authority during that financial year.

(3) The Authority is to provide the annual report to the Minister, the Treasurer and the Auditor-General.

(4) Section 36 of the State Service Act 2000 does not apply in respect of the Authority.

8F. Tabling of annual report

(1) The Minister is to lay a copy of the annual report before each House of Parliament within 5 months after the end of the financial year to which the annual report relates.

(2) If the Minister is unable to comply with subsection (1) for any reason other than that a House of Parliament is not sitting at the expiration of the period specified in that subsection, the Minister, before the expiration of that period, is to lay before each House of Parliament a statement specifying –

(a) the reasons for the failure to comply with that subsection; and

(b) an estimate of the day by which a copy of the annual report will be ready to lay before each House of Parliament.

(3) If the Minister is unable to lay a copy of the annual report before a House of Parliament within the period specified in subsection (1) or by the day specified in subsection (2) because either House of Parliament is not sitting at the expiration of that period or on that day, the Minister is to –

(a) forward a copy of the annual report to the Clerk of that House of Parliament immediately after the expiration of that period or that day; and

(b) lay a copy of the annual report before that House within the next 7 sitting days of that House.

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Division 2 - Functions and powers of Authority

11. Functions of Authority

The functions of the Authority are –

(a)

(b) to facilitate the maintenance and development of the dairy industry; and

(c) to develop and implement policies to achieve, as far as practicable, economies in the dairy industry; and

(d) to develop and implement programmes in relation to the manufacture of dairy produce designed to ensure the safeguard of public health and protection of consumers; and

(e)

(f) to consult with the Tasmanian dairy industry; and

(g) to advise the Minister on dairy industry matters or any other matter referred to it by the Minister; and

(h) to promote the health and productivity of dairy herds; and

(i) to carry out any other functions the Minister determines.

12. Powers of Authority

The Authority may –

(a) provide services for the purpose of herd improvement; and

- (b) provide services in relation to quality and testing of dairy produce; and
- (c) provide statistical information and support services; and
- (d) set and administer minimum standards for the production, testing, processing, distribution and handling of dairy produce; and
- (e) provide training services relating to persons employed in grading and testing dairy produce; and
- (f) with the approval of the Minister, make grants to any person or body; and
- (g) enter into any contract or arrangement; and
- (h) engage consultants or other contractors; and
- (i) charge a fee for services provided by it under the Act; and
- (j) do anything necessary or convenient to perform its functions.

13. Employees

- (1) Subject to, and in accordance with, the State Service Act 2000 , persons may be appointed or employed for the purpose of this Act.
- (2) The Authority, with the approval of the Head of a State Service Agency, may make arrangements for any State Service officer or State Service employee employed in that Agency to be made available to the Authority to enable it to perform its functions or exercise its powers under this Act or any other Act.

14. Delegation

The Authority, with the approval of the Minister, may delegate any of its functions and powers, other than this power of delegation, to any person.

15. Borrowing

Subject to the approval in writing of the Minister and the Treasurer, the Authority may borrow money on any terms and conditions the Treasurer approves.

16. Participation in companies

In order to perform its functions or exercise its powers, the Authority may –

- (a) be a member of a limited company; or
- (b) form, or participate in the formation of, a limited company.

PART 3 - Licences

17. Licences

(1) A person must not carry on business as a dairy farmer unless that person holds a dairy farmer's licence in force under this Act.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not carry on business as a processor of market milk unless that person holds a processor's licence in force under this Act.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units.

(3) A person must not carry on business as a manufacturer of dairy produce unless that person holds a manufacturer's licence in force under this Act.

Penalty: Fine not exceeding 50 penalty units.

(4) Unless a person holds a vendor's licence in force under this Act, that person must not –

- (a) carry on business as a seller of market milk; or
- (b) sell market milk otherwise than at premises where market milk is consumed or sold to consumers; or
- (c) transport packaged market milk before its sale to consumers.

Penalty: Fine not exceeding 50 penalty units.

18. Application for licences

(1) A person may apply to the Authority for –

- (a) a dairy farmer's licence to carry on business as a dairy farmer; and
- (b) a processor's licence to carry on business as a processor of market milk; and
- (c) a manufacturer's licence to carry on business as a manufacturer of dairy produce; and
- (d) a vendor's licence –
 - (i) to carry on business as a seller of market milk; or
 - (ii) to sell market milk otherwise than at premises where market milk is consumed or sold to consumers; or
 - (iii) to transport packaged market milk in the course of a business.

(2) An application is to be –

- (a) in a form approved by the Authority;
- (b) accompanied by any information and documents the Authority may require; and
- (c) accompanied by the prescribed fee; and
- (d) lodged with the Authority.

(3) The Authority may require an applicant to provide further information and documents.

19. Granting of licences

- (1) The Authority may –
 - (a) grant an application for a licence; or
 - (b) refuse to grant an application.
- (2) The Authority, by notice in writing, must notify the applicant of –
 - (a) the grant of an application; or
 - (b) the refusal to grant an application and the reasons for the refusal.

20. Reasons for refusing application

The Authority may only refuse to grant an application for a licence if satisfied that –

- (a) the dairy premises are not fit for the purposes for which they are to be used; or
- (b) the dairy premises do not comply with the relevant Code of Practice; or
- (c) the dairy produce to be produced at the dairy premises is unlikely to be fit for human consumption;
or
- (d) for any other prescribed reason the application is to be refused.

21. Conditions of licences

- (1) The Authority may grant an application for a licence subject to any conditions the Authority considers appropriate.
- (2) The Authority may –
 - (a) impose new conditions to the licence; or
 - (b) amend or vary a condition of the licence; or
 - (c) rescind a condition of the licence.
- (3) The Authority, by notice in writing, must notify the licensee of –
 - (a) any addition, amendment, variation or rescission of a condition; and
 - (b) the reasons for it.
- (4) The Authority may –
 - (a) rescind a condition of a licence imposed under subsection (1) or (2) (a) ; or
 - (b) rescind an amendment or variation of a condition of a licence made under subsection (2) (b) .

22. Issue of licences

The Authority, on granting an application by a person for a licence and on payment of the prescribed fee or on the Authority entering into an arrangement under section 22B , is to issue to that person any one or more of the following licences:

- (a) a dairy farmer's licence;
- (b) a processor's licence;
- (c) a manufacturer's licence;
- (d) a vendor's licence.

22A. Waiver and refund

- (1) The Authority may waive the payment of the whole or any part of the prescribed fee under section 22 or 25 in any circumstances it considers appropriate.
- (2) The Authority may refund the whole or any part of the prescribed fee under section 22 or 25 in any circumstances it considers appropriate.

22B. Arrangements for collection of fees

The Authority may enter into any arrangement with any person for the collection of the prescribed fee under section 22 or 25 and the payment of those fees to the Authority.

23. Term of licences

A licence is in force for the period, not exceeding 3 years, specified in the licence.

24. Effect of licences

A licence does not –

- (a) entitle the licensee to any specified business or market share or other entitlement; or
- (b) guarantee the licensee the supply of, or market for, any dairy produce or other goods or services.

25. Renewal of licences

- (1) A licensee, before the licence ceases to be in force, may apply to the Authority for a renewal of the licence.
- (2) An application is to be –
 - (a) in a form approved by the Authority; and
 - (b) accompanied by the prescribed fee; and
 - (c) lodged with the Authority.
- (3) The Authority may –
 - (a) grant the application, with or without conditions, on payment of the prescribed fee or on the Authority entering into an arrangement under section 22B ; or
 - (b) refuse to grant the application.
- (4) A licence is renewed –
 - (a) for a period, not exceeding 3 years, as determined by the Authority; and
 - (b) subject to any conditions specified in the licence as renewed.
- (5) If an application to renew a licence is granted before the licence ceases to be in force, the period referred to in subsection (4) (a) starts on the day the licence ceases to be in force.
- (6) If an application to renew a licence is not granted before the licence ceases to be in force, the licence –
 - (a) continues until the application is granted, refused or withdrawn, whichever occurs first; and
 - (b) if renewed, continues in force from the date on which its ceases to be in force until the end of the period referred to in subsection (4) (a) .
- (7) The Authority must notify the applicant of –
 - (a) the grant of the application; or
 - (b) the refusal to grant the application and the reasons for the refusal.
- (8) The Authority may only refuse to grant an application to renew a licence for a reason specified in section 20 .
- (9)

26. Application for transfer of licences

- (1) A licensee may apply to the Authority for approval to transfer a licence.
- (2) An application is to be –
 - (a) in a form approved by the Authority; and
 - (b) accompanied by the prescribed fee; and

(c) lodged with the Authority within 7 days before the transfer is to take effect.

27. Approval of transfer of licences

- (1) The Authority may –
 - (a) approve an application to transfer a licence, with or without conditions; or
 - (b) refuse to approve the application.
- (2) The Authority, by notice in writing, must notify the licensee of –
 - (a) the approval of an application to transfer a licence and any conditions imposed; or
 - (b) the refusal to approve the application and the reasons for the refusal.
- (3) A transfer –
 - (a) is of no effect unless approved by the Authority; and
 - (b) takes effect, if approved, on the date of the approval.
- (4) The Authority may only refuse an application for the transfer of a licence for a reason specified in section 20 .

28. Surrender of licences

A licensee may surrender a licence to the Authority.

29. Revocation of licences

- (1) The Authority, by notice in writing served on the licensee, may revoke a licence if –
 - (a) the licensee fails to comply with, or contravenes –
 - (i) any provision of this Act; or
 - (ii) any condition of the licence; or
 - (b) the licensee has ceased to carry on business of the nature specified in the licence; or
 - (c) the licensee is convicted of an offence under this Act.
- (2) Before revoking a licence, the Authority –
 - (a) by notice served on the licensee, is to notify the licensee of the intention to revoke the licence; and
 - (b) is to give the licensee an opportunity to make submissions and give evidence in relation to the matter.
- (3) A revocation takes effect –
 - (a) 28 days after a notice is served under subsection (2) (a) ; or
 - (b) if an application for a review is made under section 42 , on the day on which the Court affirms the decision.

30. Suspension of licences

- (1) The Authority may suspend a licence if satisfied that –
 - (a) it is desirable to do so in the interests of public health; or
 - (b) the dairy premises, dairy produce or a vehicle to which the licence relates fails to comply with any Code of Practice.
- (2) The Authority is to review a suspension within each one week period beginning from the date of suspension.
- (3) If the Authority is satisfied that the dairy premises, dairy produce or a vehicle to which the licence relates no longer fails to comply with any Code of Practice it must revoke the suspension.

(4) During any period in which a dairy farmer's licence in respect of a dairy farm is suspended, a person must not permit any dairy produce from that dairy farm to be –

- (a) sold or used for human consumption; or
- (b) collected and stored with milk for human consumption.

Penalty: Fine not exceeding 100 penalty units.

PART 4 -

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PART 5 - Codes of Practice

38. Codes of Practice

- (1) The Authority, with the approval of the Minister, may make Codes of Practice in respect of –
 - (a) the regulation of the dairy industry; and
 - (b) the training of persons in the dairy industry; and
 - (c) standards and grades of milk and dairy produce; and
 - (d) the keeping of records; and
 - (e) any other matter the Minister directs.
- (2) A Code of Practice may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, adopted, prescribed or published by any authority or body whether –
 - (a) wholly or partially or as amended by the Code; or
 - (b) as formulated, issued, adopted, prescribed or published at the time the Code is made or at any previous time; or
 - (c) as formulated, issued, adopted, prescribed or published from time to time.
- (3) If a Code of Practice has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, adopted, prescribed or published from time to time and that document, code, standard, rule, specification or method is at any time amended, until the Authority causes notice to be published in the *Gazette* of that amendment, the document, code, standard, rule, specification or method is to be taken not to have been so amended.
- (4) A Code of Practice may –
 - (a) confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons and bodies; and
 - (b) provide that any matter or thing is to be from time to time determined, applied, dispensed with or regulated by the Authority; and
 - (c) authorize the Authority to enforce the Code.

39. Procedure for making Codes of Practice

- (1) Before making a Code of Practice, the Authority must consult with any person or body it considers is likely to be affected by the proposed Code of Practice.
- (2) After making a Code of Practice, the Authority, by notice in writing to all licensees and in the *Gazette*, must advise –
 - (a) that it has made a Code of Practice; and
 - (b) the general purport of the Code of Practice; and
 - (c) the date on which the Code of Practice takes effect; and
 - (d) where a copy of the Code of Practice may be purchased or inspected.
- (3) A notice under subsection (2) must be notified to all licensees and in the *Gazette* at least 28 days before the Code of Practice takes effect.

40. Amendment of Codes of Practice

- (1) The Authority may amend a Code of Practice with the approval of the Minister and after consulting with any person or body it considers is likely to be affected by the proposed amendment.

- (2) The Authority, by notice to all licensees and in the *Gazette*, must advise –
 - (a) that it has amended a Code of Practice; and
 - (b) the general purport of the amendment; and
 - (c) the date on which the amendment takes effect; and
 - (d) where a copy of the amendment or the Code of Practice as amended may be purchased or inspected.
- (3) A notice under subsection (2) must be notified to all licensees and in the *Gazette* at least 28 days before the amendment to the Code of Practice takes effect.

41. Availability of Codes of Practice

- (1) The Authority must make available at its public offices at all reasonable times a copy of a Code of Practice or an amendment to a Code of Practice for purchase or inspection.
- (2) The Authority may charge a fee for the purchase or inspection of a Code of Practice or any amendment to a Code of Practice.

PART 6 - Miscellaneous

42. Reviews

A person may apply to the Magistrates Court (Administrative Appeals Division) for a review of a decision of the Authority –

- (a) to refuse to grant an application for a licence; or
- (b) to refuse to grant an application for the transfer of a licence; or
- (c) to refuse to grant an application for the renewal of a licence; or
- (d) to revoke a licence; or
- (e) to impose, amend, vary or rescind a condition of a licence.

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45. Authorized officer

- (1) The Authority may appoint a person to be an authorized officer for the purpose of this Act.
- (2) The Authority must issue a certificate of authority to an authorized officer.

46. Powers of authorized officers

- (1) An authorized officer may –
 - (a) enter, inspect and examine any dairy premises or any other premises on which –
 - (i) dairy produce is manufactured, tested, graded, stored or packed; or
 - (ii) there is conducted a business in respect of which a licence is required; and
 - (b) enter, inspect and examine any dairy premises or other premises which the authorized officer reasonably suspects are being used for the purposes in paragraph (a) ; and
 - (c) inspect and examine any records, product, material, equipment, plant or facility on any premises or vehicle relating to or used for receiving, collecting, processing, producing, manufacturing, transporting, storing, distributing, packaging, sealing, testing, grading, selling, purchasing or disposing of dairy produce; and
 - (d) inspect and examine any records kept by a licensee for the purpose of verifying information given to the Authority by the licensee for the purposes of this Act; and
 - (e) take copies of or extracts from any records referred to in paragraph (c) or (d) ; and
 - (f) take samples, not exceeding 10% of the total volume, of any dairy produce or any material, chemical or other substance or thing used or suspected of being used in connection with the production, preparation, processing, manufacture, testing or grading of any dairy produce; and
 - (g) conduct, or cause to be conducted, any examination, grading or analysis the authorized officer considers necessary to determine the composition, safety or quality of any dairy produce; and
 - (h) stop and inspect any vehicle used, or constructed, for the transport of milk.
- (2) Before exercising any power under this section, an authorized officer is to produce the certificate of authority issued under section 45 .
- (3) In this section, *records* includes –

- (a) records made by any electronic means; and
- (b) any written, typed or printed matter which reproduces records made by electronic means.

47. Hindering authorized officer

A person must not hinder or obstruct an authorized officer in the exercise of any powers conferred by this Act.

Penalty: Fine not exceeding 50 penalty units.

48. Committees

- (1) The Authority may establish a committee on any terms and conditions it considers appropriate.
- (2) The function of a committee is to advise the Authority on any matter relating to its functions and powers.

49. Immunity from liability

A member of the Authority or a committee is not personally liable for an honest act or omission done or made in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act.

50. Records

- (1) The holder of a licence must –
 - (a) provide the Authority with any return or information relating to milk or dairy produce the Authority requires; and
 - (b) at all reasonable times, permit an authorized officer to inspect and take copies of any records required to be kept under this Act or a Code of Practice.
- (2) The Authority must not divulge any information obtained under this section which identifies or is attributable to a person without that person's consent in writing.

51. False and misleading statements

A person, in giving any information under this Act, must not –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is misleading.

Penalty: Fine not exceeding 50 penalty units.

52. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may –
 - (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.
- (3) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) Regulations may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as in force at a particular date.
- (5) Regulations may provide for the –
 - (a) payment of any prescribed fee by instalments; and

(b) reduction of any prescribed fee in any circumstances the Authority considers appropriate.

53. Proceeds of milk sales

Any proceeds of the sale of milk not distributed by the Authority before the commencement of the *Dairy Industry Amendment Act 2000* are to be distributed by the Authority on or after that commencement in accordance with section 37 as if that section had not been repealed by that Act.

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SCHEDULE 1 - Membership of Authority

Section 6(3)

1. Period of appointment

A member is to be appointed for the period, not exceeding 3 years, specified in his or her instrument of appointment.

2. Holding other office

The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

3. Remuneration

A member is entitled to be paid any remuneration and allowances the Minister determines.

4. Vacation of office

(1) A member vacates office if the member –

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under subclause (2) or (3).

(2) The Minister may remove a member from office if the member –

- (a) is absent from 3 consecutive meetings of the Authority without the permission of the Authority; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes assignment of remuneration or estate for the creditors' benefit; or
- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

5. Filling of vacancies

(1) If the office of a member referred to in paragraph (a) of section 6(1) becomes vacant, the Minister may appoint a person selected from nominations received under that paragraph to the vacant office for the remainder of that member's term of office.

(2) If the office of a member referred to in section 6(1) (c) or (d) becomes vacant, the Minister may appoint a suitable person to the vacant office for the remainder of that member's term of office.

SCHEDULE 2 - Meetings of Authority

Section 6(4)

1. Convening of meetings

The chairperson –

- (a) may convene a meeting of the Authority at any time; and
- (b) is to convene a meeting if requested in writing by 2 other members or if so directed by the Minister.

2. Procedure at meetings

- (1) The quorum at any meeting of the Authority is 3 members.
- (2) Any meeting of the Authority at which a quorum is present is competent to transact any business of the Authority.
- (3) A question arising at a meeting of the Authority is to be determined by a majority of votes of the members present and voting.
- (4) A telephone or video conference between members is a meeting of the Authority at which the members participating in the conference are present.

3. Chairperson

- (1) The chairperson of the Authority is to preside at all meetings of the Authority.
- (2) If the chairperson of the Authority is not present at a meeting of the Authority, a member elected by the members present is to preside at that meeting.

4. Minutes

The Authority is to cause full and accurate minutes to be kept of its proceedings at meetings.

5. General procedure

Subject to this Schedule, the procedure for the calling of, and for the conduct of business at, meetings of the Authority is to be determined by the Authority.

6. Validity of proceedings

- (1) An act or proceeding of the Authority or of a person acting under the direction of the Authority is not invalid because when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the Authority.
- (2) An act or proceeding of the Authority or of a person acting under the direction of the Authority is valid even if –
 - (a) the appointment of a member was defective; or
 - (b) a person appointed as a member was disqualified from acting as, or incapable of being, a member.

7. Presumptions

In any proceedings by or against the Authority, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Authority; or
- (b) any resolution of the Authority; or
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Authority.

8. Disclosure of interest

(1) A member or deputy member of the Authority who is aware that he or she has a pecuniary interest, otherwise than in common with the member's sector of the dairy industry, in a matter under consideration by the Authority –

(a) must disclose the nature of the interest to the Authority; and

(b) unless the Authority otherwise determines, must not take part in any deliberations or decisions of the Authority in relation to that matter.

Penalty: Fine not exceeding 50 penalty units.

(2) A member who makes a disclosure under subclause (1)(a) is not to take part in the making of a determination for the purpose of subclause (1)(b) .

(3) A disclosure under this clause is to be recorded in the minutes of the Authority.

SCHEDULE 3