

MILK ACT.

Act No. 59, 1931.

George V, An Act to provide for the regulation and control
No. 59, 1931. of the supply and distribution of milk for
consumption or use in the metropolitan
milk distributing district comprising certain
areas in and around the City of Sydney and
in other milk distributing districts to be
established; to constitute a Milk Board and
to define its functions, powers, and duties;
to repeal the Metropolitan Milk Act, 1929;
to amend the Dairies Supervision Act, 1901,
the Public Service Act, 1902, and certain
other Acts; and for purposes connected
therewith. [Assented to, 7th December,
1931.]

BE

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Milk Act, 1931."
Short title.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.
Commencement.

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.
Construction.

2. This Act is divided into Parts as follows:—

Division into Parts.

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PART II.—MILK BOARD, OFFICERS, &C.—*ss.* 7-21.

PART III.—FUNCTIONS AND POWERS OF THE BOARD—*ss.* 22-42.

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PART VI.—REGULATIONS AND BY-LAWS—
ss. 75-77.

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SCHEDULE.

Repeal of
Act No. 59,
1929.

3. (1) The Metropolitan Milk Act, 1929, is hereby repealed and the corporate body constituted in pursuance of that Act under the name of the "Metropolitan Milk Board" is hereby dissolved.

(2) The persons who, at the commencement of this Act are members of the Metropolitan Milk Board, shall cease to hold office, and such persons shall not retain any rights, status, or privileges conferred by the Metropolitan Milk Act, 1929: Provided that the chairman of the Metropolitan Milk Board shall retain any rights and privileges to which he may be entitled by virtue of section seven of that Act.

(3) All regulations and by-laws made under the Metropolitan Milk Act, 1929, and in force at the commencement of this Act shall, to the extent to which they are not inconsistent with this Act, continue in force, until repealed or replaced by regulations or by-laws under this Act.

In construing such regulations or by-laws a reference to the Board shall be deemed a reference to the Milk Board, and a reference to the chairman, secretary, or officer authorised by the Board shall be deemed a reference to the chairman, secretary, or officer authorised by the Milk Board.

Interpreta-
tion.cf. Act No.
59, 1929,
s 3.

4. In this Act, unless the context otherwise indicates or requires,—

"Area" means any municipality, including the City of Sydney, or any shire.

"Authorised agent" means any person authorised by the Board to act on its behalf in the execution of its powers under this Act, either generally or in any particular matter or case; and includes any agent, employee, or servant of an authorised agent empowered by such authorised agent to act on his behalf.

"Board"

- “ Board ” means the Milk Board constituted by ^{No. 59, 1931.}
this Act.
- “ By-laws ” means by-laws made under this Act.
- “ Chairman ” means chairman of the Board.
- “ Dairyman ” means the occupier of any dairy premises.
- “ Dairy premises ” means any land or premises used for or in connection with the stalling, grazing, feeding, or milking of cattle for the purpose of producing milk which is sold or to be sold for consumption or use within any milk distributing district.
- “ Milk ” includes cream, and refers only to milk or cream which is sold or to be sold for consumption or use within any milk distributing district.
- “ Milk distributing district ” means a milk distributing district established under this Act.
- “ Milk store ” means any building, shed, or place at or upon which milk is treated, deposited, or stored, and includes any building or premises within any milk distributing district at or upon which milk is sold.
- “ Milk vendor ” means any person who is the occupier of a milk store, or who himself or by his employee receives or accepts milk to be forwarded or supplied to any milk distributing district otherwise than as a carrier or who sells milk therein.
- “ Person ” includes any partnership or firm or company or society formed under any Act and any body of persons corporate or unincorporate.
- “ Prescribed ” means prescribed by this Act or by the regulations or by-laws.
- “ Regulations ” means regulations made under this Act by the Governor.
- “ Secretary ” means secretary of the Board.
- “ To sell ” means to sell by wholesale or by retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver
for

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for sale, cause or suffer or allow to be sold, offered, or exposed for sale, and refers only to selling for human consumption; and "sale" and "sold" have a corresponding meaning.

"Treatment" includes the examination, cleansing, pasteurisation, modification, testing, grading, cooling, refrigerating, bottling, or packing of milk; and "treat" has a corresponding meaning.

Saving of
certain Acts.
cf. Act No.
59, 1929, s. 4.

5. Unless otherwise in this Act expressly provided, this Act shall not affect any provision of the Dairies Supervision Act, 1901, the Sydney Corporation Act, 1902, the Public Health Act, 1902, the Public Health (Amendment) Act, 1915, the Pure Food Act, 1908, the Factories and Shops Act, 1912, the Dairy Industry Act, 1915, the Weights and Measures Act, 1915, the Local Government Act, 1919, the Stock Diseases Act, 1923, or any Act amending those Acts, or any rules, regulations, ordinances, or by-laws made under any such Acts, or take away powers vested in any person or body by any of the said Acts or by any rules, regulations, ordinances, or by-laws made thereunder.

Application
of Act.

6. (1) This Act shall apply to every producing district and to every milk distributing district established under this Act.

(2) The areas set out in the First Part of the Schedule to this Act shall be the producing district for the metropolitan milk distributing district.

(3) The areas set out in the Second Part of the Schedule to this Act together with the Port of Sydney as defined in the Sydney Harbour Trust Act, 1900-1930, shall be the metropolitan milk distributing district.

(4) The Governor may from time to time by proclamation published in the Gazette establish any new milk distributing district, and define the producing district for such milk distributing district.

Every such proclamation shall amend the Schedule to this Act—

(a) by adding to the Second Part thereof the name of the milk distributing district and the names of the areas or parts of areas included in such district;

(b)

- (b) by adding to the First Part thereof the name of the producing district for such milk distributing district and the names of the areas or parts of areas included in such producing district. ^{No. 59, 1931.}

(5) The Governor may from time to time by proclamation published in the Gazette amend the Schedule to this Act or any addition made thereto pursuant to subsection four of this section by adding thereto or excluding therefrom the names of any areas or parts of areas.

(6) Every proclamation issued pursuant to subsection four or subsection five of this section shall—

- (a) take effect from the date of publication of the proclamation or from a later date to be specified in the proclamation; and
- (b) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such proclamation has been laid before such House disallowing the proclamation or part thereof, such proclamation or part shall thereupon cease to have effect.

(7) Where the Schedule to this Act is so amended, the Amendments Incorporation Act, 1906, shall extend to any amendment so made, and the Schedule as so amended may be reprinted as the Schedule to this Act in any reprint made after such amendment.

PART II.

MILK BOARD, OFFICERS, &C.

Milk Board.

7. (1) There shall be constituted a Board to be called the Milk Board, which shall, subject to the control of the Minister, be charged with the administration of this Act.

(2) The Board shall consist of three members, one of whom shall be appointed as the chairman of the Board; one other shall be representative of dairy-men; and the third shall be representative of the consumers of milk.

(3) The members of the Board shall be appointed by the Governor for a term of five years, shall receive such remuneration as may be determined by the Governor, and shall be eligible for reappointment:

Provided that on the occurrence of a vacancy an appointment shall be made for the unexpired term of the vacant office.

(4) The retiring age for each member of the Board shall be sixty-five years.

(5) A member of the Board may be suspended or removed for misbehaviour or incompetence, as follows:—

Removal of
members of
Board.
59 Vic. No.
25, s. 6.

(a) a member of the Board may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided.

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting, within seven days after the commencement of the next session or sitting.

(b) a member of the Board suspended under this section shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it, declares by resolution that the said

said member ought to be removed from office, and if each House of Parliament within the said time does so declare, the said member shall be removed by the Governor accordingly.

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(6) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of members of the Board, and such members shall not as members be subject to the provisions of the said Act during their tenure of office.

(7) The chairman shall be the permanent head within the meaning of the Public Service Act, 1902, and any Act amending that Act.

(8) Members of the Board shall be entitled to such leave of absence as may be prescribed.

(9) In the case of the illness, suspension, or absence from New South Wales of any member of the Board the Governor may appoint a deputy to perform all or any of the duties of such member, and such deputy shall receive such salary, fee, or remuneration as the Governor may direct.

8. (1) Any member of the Board who at the date of his appointment is an officer of the Public Service shall in the event of his office on the Board being discontinued or in the event of the dissolution of the Board, be eligible, on the recommendation of the Public Service Board, to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as a member of the Board.

Saving of rights.

(2) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916, or any Act amending such Acts, to any officer of the Public Service appointed a member of the Board.

(3) Any officer of the Public Service so appointed shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave, payment, pension, or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1930, as the case may be.

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Disqualifica-
tion.

9. A person who is a member of any firm or a director or officer of any company, society, association, or corporation directly or indirectly carrying on the business of or having for its objects the supply, treatment, distribution, or sale of milk, or who receives any remuneration or fee, or any benefit (otherwise than as a shareholder) from any such firm, company, society, association, or corporation shall not be eligible for appointment as a member of the Board, and shall be disqualified to hold such office.

Vacancies—
how caused.

10. A member of the Board shall be deemed to have vacated his office if he—

- (a) engages during his term of office in any paid employment outside the duties of his office ;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit ;
- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Minister (which leave he is authorised to grant), or becomes incapable of performing his duties ;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898 ;
- (e) is convicted of any felony or misdemeanour ;
- (f) becomes disqualified from holding office as a member of the Board ;
- (g) resigns his office in writing under his hand addressed to the Governor.

Procedure,
quorum, &c.

11. (1) The procedure for the calling of meetings of the Board and the conduct of business at such meetings shall, subject to any regulations or by-laws in relation thereto, be as determined by the Board.

(2) At any meeting of the Board at which all three members are present, the decision of a majority shall be the decision of the Board.

(3) Any two members of the Board shall be a quorum thereof, and any duly convened meeting at which a quorum is present shall be competent to
transact

transact any business of the Board, and shall have and may exercise all the powers and authorities which by this Act are conferred on the Board.

(4) The chairman shall preside at all meetings of the Board at which he is present.

(5) If at any meeting of the Board at which two members only are present, such members differ in opinion upon any matter, the determination of such matter shall be postponed to a meeting at which all three members are present.

(6) The Board shall keep full and accurate minutes of all its proceedings in such manner and form as may be prescribed by the regulations.

(7) The Board may by resolution under seal authorise the chairman to determine such matters as are specified in the resolution.

Any such authority may from time to time be revoked or varied by resolution under seal.

(8) All acts and proceedings of the Board shall be valid notwithstanding any vacancy in the Board or any irregularity in the appointment of any member of the Board, and notwithstanding that any person not qualified or ceasing to be qualified may have acted as a member of the Board.

12. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Incorporation
of the Board.

(2) The common seal shall be kept in the custody of the chairman or such other member of the Board as the Board may determine, and shall not be affixed to any instrument or writing, except in the presence of a quorum of the Board; and the members in whose presence the seal is affixed shall attest by their signatures the fact and date of the seal being so affixed.

(5)

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(3) All courts and persons having by law or consent of parties authority to hear, receive, and examine evidence shall take judicial notice of the seal of the Board affixed to any document; and shall, until the contrary is proved, presume that such seal was properly affixed thereto.

Crown debts.
cf. Act No.
59, 1929,
s. 19.

13. Any moneys due to the Board or to the Metropolitan Milk Board shall, for the purposes of the recovery thereof, be deemed to be moneys due to His Majesty, and may be sued for and recovered by the Board.

Member
acting bona
fide not
personally
liable.
cf. *Ibid.*
s. 20.

14. (1) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or officer of the Board or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject any such member, officer, or person to any action, liability, claim, or demand whatsoever.

(2) Nothing in this section shall exempt any member of the Board from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board, and which such member authorised or joined in authorising.

Transfer of
officers.

15. (1) The officers and employees of the Metropolitan Milk Board shall become and be the officers and employees of the Board.

(2) No officer or employee so transferred shall be entitled to claim benefits under this Act as well as under any other Act for the same period of service.

(3) Where any condition of employment of any officer or employee so transferred to the Board is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Board is bound is made by a competent tribunal or such condition is regulated by an industrial agreement to which the Board is a party.

16.

16. (1) The Governor may on the recommendation of the Board appoint such officers as are necessary for carrying out the provisions of this Act, and may, on a like recommendation, determine the salary, wages, allowances, and conditions of employment of the officers so appointed where these are not determined in accordance with the provisions of other Acts.

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Appointment
of officers.

(2) Upon the recommendation of the Board regulations may be made under this Act as to the conditions and terms of employment of officers and employees of the Board.

(3) The Board may employ and dismiss such casual employees as it deems necessary.

Casual employees shall receive such wages or remuneration as the Board may determine.

17. Any officer or employee so transferred and any officer of the Public Service so appointed to the service of the Board shall—

Saving of
rights.

- (a) have the same right to consideration for any appointment in the Public Service as is provided by the Public Service Act, 1902, for an officer of the Public Service; and
- (b) have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred, and extended leave, and superannuation contributions and payments, as if he had continued an officer or employee of the Metropolitan Milk Board or of the Public Service, and for this purpose service with the Metropolitan Milk Board, or in the Public Service, of any officer shall count as continuous service with the Board, and service with the Board shall for the purposes of superannuation count as service with the Metropolitan Milk Board or in the Public Service.

18. (1) Any officer or employee entrusted with the custody and control of moneys shall, where required by the Board, give such security for the faithful execution of his office or employment as the Board shall require.

Offices.

(2)

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cf. Act No.
59, 1929,
s. 21 (3).

(2) Any person who being a member of the Board or holder of any office or employment under this Act, without lawful authority demands or receives from any person any payment, gratuity, or present in consideration of doing or of omitting to do any act or thing pertaining to his office or employment shall be liable upon summary conviction to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding two years, and his services shall, as from the date of his conviction, be terminated, and any privileges accruing or accrued forfeited.

cf. *Ibid.*
s. 21 (4).

(3) Any person who without lawful authority offers, makes, or gives to any member of the Board or to the holder of any office or employment under this Act any payment, gratuity, or present in consideration that such member or holder of office or employment will do or omit to do some act or thing pertaining to his office or employment shall be liable upon summary conviction to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding two years.

Failure to
account, &c.
cf. *Ibid.*
. 22

19. (1) If any officer or employee, when required by the chairman or secretary, fails—

- (a) to render account of moneys which in the course of his duties as such officer or employee shall have come into his hands or under his control and of his dealings therewith, or to pay to the chairman or secretary the balance of such moneys; or
- (b) to deliver up within two days to the chairman or secretary all papers, property, and things in his possession or power relating to the execution of this Act or belonging to the Board,

any stipendiary or police magistrate or any two justices may on the complaint of the chairman or secretary order such officer or employee to render the accounts, pay the balance, or deliver up the papers, property, and things as the case may be, and that on non-compliance with the order the officer or employee be imprisoned for a term not exceeding six months. (2)

(2) Proceedings under this section shall not affect the liability of any surety of any officer or employee or relieve any officer or employee from being held to answer any criminal information, charge, or proceedings.

(3) For the purpose of this section "officer" or "employee" shall include a person who has within twelve months prior to any requirement referred to in subsection one of this section been an officer or employee.

20. Any officer, employee, or other person who wilfully destroys any document of or belonging to the Board shall be guilty of a misdemeanour, and shall be punishable accordingly.

Wilful
destruction
of document.
cf. Act No. 59,
1929, s. 23.

21. (1) All real and personal property and all right and interest therein and all management and control of any land or thing which is vested in or belongs to the Metropolitan Milk Board shall vest in and belong to the Board.

Rights,
liabilities,
and property.

(2) All rates, moneys, liquidated and unliquidated claims which are payable to or recoverable by the Metropolitan Milk Board under the Metropolitan Milk Act, 1929, shall be rates, moneys, liquidated and unliquidated claims payable to or recoverable by the Board.

(3) All suits, actions, and proceedings pending at the suit of the Metropolitan Milk Board in relation to any matter or claim whatsoever shall be suits, actions, and proceedings pending at the suit of the Board.

(4) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the Metropolitan Milk Board and in force at the commencement of this Act shall be contracts, agreements, and undertakings entered into with and securities given to or by the Board.

(5) The Board may pursue the same remedies for the recovery of any such rates, moneys, and claims, and for the prosecution of such suits, actions, and proceedings as the Metropolitan Milk Board might have done but for this Act.

(6)

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(6) The Board may enforce and realise any security or charge existing at the commencement of this Act in favour of the Metropolitan Milk Board in respect of any such rates, moneys, and claims as if such security or charge were existing in favour of the Board.

(7) All debts due and moneys payable by, and all claims, liquidated and unliquidated, recoverable against the Metropolitan Milk Board, shall be debts due and moneys payable by and claims recoverable against the Board.

(8) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

PART III.

FUNCTIONS AND POWERS OF THE BOARD.

Regulation
and control
of supply
and distri-
bution of
milk.

22. Subject to the provisions of this Act the Board is hereby charged with the regulation and control of the supply and distribution of milk within the metropolitan milk distributing district and such other milk distributing districts as may from time to time be established.

Fixation of
prices.

23. (1) As soon as practicable after its appointment and thereafter from time to time as the Board may deem necessary or desirable, the Board shall determine, after inquiry to be held in the manner prescribed by regulations, the minimum price or prices which may be paid to a dairyman for milk.

(2) The Board may from time to time after inquiry held in the manner prescribed by regulations—

- (a) fix the price or prices which may be paid to or charged by any person for the collection, treatment, storage, distribution, or delivery of milk ;
- (b) fix different minimum prices to be paid to dairymen according to differences in grade, quality, description, or quantity (whether grade, quality, or description are prescribed or not),

not), or the conditions of collection, treatment, delivery, or sale, or in respect of milk produced in different producing districts or parts thereof;

- (c) fix the maximum price or prices to be paid by milk vendors or other persons for milk bought by wholesale for resale or for use;
- (d) fix the maximum price or prices at which milk may be sold by retail;
- (e) fix different maximum wholesale or retail prices according to differences in grade, quality, description, or quantity (whether grade, quality, or description are prescribed or not), or the conditions of delivery, distribution, or sale, or in respect of milk delivered, distributed, or sold in different distributing districts or parts thereof;
- (f) vary or revoke any such price but so as to apply only to future transactions.

(3) (a) Prices determined or fixed by the Board shall, if approved by the Minister, be notified in the manner prescribed by the regulations and take effect from a day to be specified in such notification, and continue to have effect until varied or revoked by a subsequent notification.

(b) Any person who—

- (i) purchases milk supplied by a dairyman or being a dairyman supplies milk for use or consumption within a milk distributing district at a price less than the minimum price notified in respect of such milk; or
- (ii) sells milk at a price exceeding the maximum price so notified; or
- (iii) pays or charges any price exceeding the price so notified for the collection, treatment, storage, distribution, or delivery of milk,

shall be guilty of an offence against this Act.

(4) If after any agreement is made for the sale and purchase of milk the Board in exercise of its powers under this section fixes and notifies any price which affects

cf. Customs Act 1901-1923 (Commonwealth), s. 152.

affects either directly or indirectly any such agreement, then as from the date the notification takes effect the agreement shall be altered as follows :—

- (a) Where any minimum price to be paid to a dairyman is so fixed and notified such price shall be substituted for the agreed price in any agreement with a dairyman for the supply or sale of milk where such agreed price is less than the minimum price fixed and notified for milk of the grade, quality, or description supplied or sold, whether or not grade, quality, or description is specified in the agreement ;
- (b) Where any price is fixed for the collection, treatment, storage, distribution, or delivery of milk, such price shall, if less than the agreed price in any agreement for such purposes relating to milk affected by such fixation, be substituted for such agreed price.
- (c) Where the agreement is between a milk vendor and a person other than a dairyman, and any agreement under which such milk vendor acquired the milk has been varied by the operation of paragraph (a) or paragraph (b) of this subsection—
 - (i) if such variation operates to increase the cost of the milk to such milk vendor he may add to the agreed price the net amount of such increase ;
 - (ii) if such variation operates to decrease the cost of the milk to such milk vendor, the purchaser may deduct from the agreed price the net amount of such decrease ;

but in no case shall this subsection operate to increase the price payable under any agreement to a price exceeding any maximum price fixed and notified under this section in relation to milk of the grade, quality, or description sold, whether or not grade, quality, or description is specified in the agreement.

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

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Definition of districts and sub-districts.

- (a) define, regulate, and control the method, extent and/or conditions of supply, collection, and treatment of milk within any producing district or part thereof or at any milk store ;
- (b) regulate the number of milk stores at which milk may be treated, deposited, or stored in any producing district ;
- (c) divide any milk distributing district into distributing sub-districts, and regulate the number of persons who may treat, deposit, store, distribute, or sell milk within any such distributing sub-district or part thereof.

(2) In the exercise of its powers under this section the Board shall have due regard to the interests of any person then engaged or interested in the supply, collection, treatment, deposit, storage, distribution, or sale of milk within the producing district or milk distributing district or sub-district or part thereof, in respect of which the power is exercised.

25. The Board may, subject to this Act,—

Powers of the Board

- (a) issue certificates in the prescribed form to dairymen or milk vendors specifying the grade or grades of milk which any such dairyman or milk vendor is authorised to supply, treat, deposit, store, distribute, or sell: Provided that no certificate authorising the supply, distribution, or sale of milk as the product of tuberculin tested cows shall issue unless the cows producing such milk have been certified as free from tubercle by the Department of Agriculture, or by the Board or by a veterinary surgeon approved by the Board ;
- (b) establish and maintain laboratories to carry on researches into matters relating to milk and the products and by-products of milk ; and adopt the results of any such researches and investigations made in any other laboratories ;

(c)

- (c) at any reasonable time by authorised officers enter and inspect any premises which are believed to be used as dairy premises or milk stores, and examine and take notes, copies, or extracts of or from any books, documents, papers, and any scales, measures, appliances, apparatus, vehicles, or utensils referring to or used in connection with the supply, collection, treatment, storage, distribution, or sale of milk ;
- (d) call for and obtain such information or returns, including periodical information or returns from dairymen and milk vendors as in the opinion of the Board are necessary or desirable ;
- (e) prohibit the use for human consumption in any form of milk which appears to it to be deleterious to health or unwholesome ;
- (f) require dairymen, authorised agents, and milk vendors to keep such books and records as may be prescribed and in such forms as may be prescribed ;
- (g) require dairymen to keep a register in or to the effect of the prescribed form showing the prescribed particulars of their herds ;
- (h) take or purchase samples of milk from any dairy premises or milk store, or from any conveyance, utensil, or container ;
- (i) appoint any authorised agent ;
- (j) regulate and determine the hours or times within which milk may be distributed by retail in any vehicle or receptacle in any milk distributing district or sub-district or part thereof.

26. (1) From and after a day to be appointed by the Governor and notified by proclamation published in the Gazette, milk supplied for consumption or use within the metropolitan milk distributing district or milk distributing sub-district thereof specified in the proclamation shall become absolutely vested in and be the property of the Board.

All milk supplied for consumption or use in any milk distributing district to vest in the Board.

(2)

(2) The Governor may also by a proclamation as aforesaid appoint a day from and after which milk supplied for consumption or use within any milk distributing district or any milk distributing sub-district thereof, notified in accordance with this Act, shall become absolutely vested in and be the property of the Board.

(3) From and after the day so appointed such milk shall become the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests, and trusts affecting the same, and the rights and interests of every person in such milk shall thereupon be taken to be converted into a claim for payment therefor.

(4) Any proclamation may be made in respect only of milk produced in or supplied or to be supplied to certain milk distributing sub-districts, and may provide for the vesting of milk subject to the fulfilment of such conditions as are specified, and may be amended or revoked by a subsequent proclamation.

(5) No such proclamation shall apply to milk produced and retailed directly by a dairyman on his own behalf.

27. (1) Upon and after the date of the publication of any proclamation under section twenty-six of this Act, all milk supplied for consumption within the milk distributing district or sub-district thereof specified in the proclamation shall be delivered by the dairyman producing the same to the Board in accordance with the provisions of this section. Delivery and acceptance of milk.

(2) For the purposes of this section the Board may from time to time determine—

- (a) the quantity of milk per week which may be supplied to and accepted by the Board in any producing district or part thereof or at any place appointed by the Board at which milk will be accepted;
- (b) the quantity of milk or the number of milkings per week either morning or afternoon which may be delivered by any dairyman to and accepted by the Board;

(c)

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- (c) the places at which milk will be accepted by the Board;
- (d) the periods during which milk may be so delivered and accepted.

In making any determination under paragraph (a) of this subsection the Board shall have regard to the quantity of milk per week which, prior to the making of such determination, has been supplied in such producing district or part thereof for consumption or use in the milk distributing district or milk distributing sub-district referred to in the proclamation.

(3) On and from the date of the publication of any proclamation under section twenty-six of this Act any dairyman who, except to the extent provided in subsection five of that section, supplies, sells, or delivers milk for consumption or use in the milk distributing district or the sub-district thereof specified in the proclamation to a person other than the Board, and every person other than the Board who buys or receives such milk from a dairyman, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding twenty pounds.

(4) Milk so delivered to and accepted by the Board may be disposed of to milk vendors or to other persons.

Delivery of milk.

28. (1) All milk delivered to the Board shall be delivered in the name of the dairyman producing the same.

cf. Act No. 34, 1927, s. 14 (2).

(2) The Board shall, out of the proceeds of milk disposed of by the Board under this Act, make provision for expenditure incurred in the treatment, carriage, distribution, and sale of milk, the costs, charges, and expenses of the administration by the Board of this Act, and any amounts necessary to repay advances made to, and to provide a sinking fund in respect of any loan raised by the Board, and interest on any such advance or loan; and subject to this Act shall make payments to each dairyman in respect of the milk delivered by him on the basis of the minimum price or prices notified in relation thereto.

(3)

(3) For the purposes of ascertaining the price to be paid to a dairyman for milk delivered to the Board, and for the purposes of this Act, the Board's decision as to grade, quality, or description (whether grade, quality, or description is prescribed or not), and as to the quantity or the conditions of production, supply, collection, treatment, or delivery shall be final and conclusive.

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cf. Act No.
34, 1927,
s. 14 (4).

(4) Where milk produced under a share-farming or partnership agreement is delivered to and accepted by the Board, the Board may in its discretion make payment to each of the parties to such agreement in accordance with their interests in the milk delivered.

cf. *Ibid.*
s. 15 (2).

29. The Board may make or arrange for advances on account of milk delivered to the Board, and any such advances and any payment made on account of such milk may be made at such time or times, and on such terms and conditions, and in such manner as the Board may think fit.

Advances on
account.

cf. *Ibid.*
s. 15 (3).

30. (1) Every contract which is made in or outside of New South Wales, whether before or after the publication of a proclamation, so far as it relates to milk which is the subject of the proclamation, shall be and is hereby declared to be and to have been void and of no effect as from the date upon which it was made, so far as such contract has not been completed by delivery at the date of the publication of such proclamation: Provided that for the purposes of this section any such contract shall be deemed to be severable.

Contracts for
sale of milk.

cf. *Ibid.*
s. 16.

(2) Any transaction or contract with respect to milk which is the subject-matter of any contract or part of a contract declared by this section to be void shall also be void and of no effect, and any money paid in respect of any contract or part of a contract hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

31. (1) Subject to this section no proceedings at law or in equity shall be brought against the Board or any person acting under its authority by any person claiming to be entitled to any bill of sale, mortgage,

Remedy against
Board confined
to claim for
account.
cf. *Ibid.* s. 18.

No. 59, 1931.

mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, or the Co-operation Acts, 1923-1929), or other encumbrance whatsoever of or upon or over any of the milk, or claiming to be the true owner of the milk, as against the dairyman who delivered the milk.

(2) Any person who but for this section might have brought any such action may adopt the delivery of milk to the Board as a delivery thereof by him to the Board, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law to the contrary, any such person shall not be entitled to claim as aforesaid for an account of the payments due in respect of the milk, or any part of such payments, unless he has given prior notice in writing to the Board in the form and containing the particulars prescribed of such bill of sale, mortgage, charge, lien, or other encumbrance, or claim of ownership, and then only for such part of such moneys as has not been paid to other persons at the time of the receipt by the Board of such notice.

Duty to give notice of encumbrances, &c. cf. Act No. 34, 1927, s. 19.

32. (1) Every dairyman supplying milk for consumption or use within any milk distributing district to which this Act applies and which is subject to any bill of sale, mortgage, charge, lien, or encumbrance referred to in section thirty-one of this Act, or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof (and whether such bill of sale, mortgage, charge, lien, or encumbrance, or contract was made before or after the issue of a proclamation under section twenty-six of this Act) shall, within one month after the making thereof, give to the Board a notice in writing in the prescribed form of every such bill of sale, mortgage, charge, lien, or encumbrance, or contract.

(2)

(2) Any person wilfully guilty of a failure to comply with the provisions of this section shall be guilty of an offence against this Act.

33. Where the Board in good faith and without negligence has made any payment—

Non-liability of Board for payments in good faith, &c.
cf. Act No. 34, 1927, s. 20.

- (a) to a dairyman delivering or causing to be delivered any milk to the Board or any person acting under its authority; or
- (b) to any person entitled or claiming to be entitled through such dairyman; or
- (c) to any person on the order of such dairyman or last-mentioned person,

the Board shall not be answerable to any other person in respect of such payment for the milk or any part thereof, or in any action, suit, claim, or demand whatsoever for damages or otherwise.

34. (1) If prior to receiving notice of claim to any payment or to the chose in action or any part thereof the subject-matter of a payment the Board has in good faith and without negligence adjusted and settled with the dairyman or with any person who has made a claim in accordance with the provisions of subsection two of section thirty-one of this Act for the money payable thereunder, the Board shall not incur any liability to the true owner of such chose in action or any part thereof or to any party claiming through, under, or in trust for him: Provided that the Board shall not be entitled to the protection of this subsection in respect of any moneys remaining in its hands at the time of receipt by it of notice of such claim or thereafter coming to its hands in respect of a chose in action the subject-matter of such a claim.

Protection of Board.
cf. *Ibid.* s. 21.

(2) This section shall not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to the chose in action the subject-matter or part of the subject-matter of any claim for payment.

(3) The Board may plead this section in absolute bar of any proceeding (whether at law or in equity) by any dairyman, transferee, or party aforesaid in respect of such chose in action or any part thereof.

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Protection of
Crown and
its officers.
cf. Act No.
34, 1927,
s. 22.

35. No action, claim, or demand whatsoever shall lie, or be made or allowed by or in favour of any person whomsoever against His Majesty, or the Minister or (save as in this Act provided) the Board or any officer or person acting in the execution of this Act for or in respect of any damage or loss or injury sustained or alleged to be sustained by reason of the passing of this Act or the issue of a proclamation under this Act or of its operation, or of anything done or purporting to be done thereunder.

Registration
of dairymen
and milk
vendors.
cf. Act No.
59, 1929,
s. 26.

36. (1) No person shall carry on business as a dairyman or milk vendor unless he is authorised to do so by a certificate of registration issued by the Board.

(2) A certificate of registration shall, unless sooner suspended, cancelled, or surrendered continue in force until the thirty-first day of December of the year in which it is issued.

(3) Application for the renewal of a certificate of registration shall be made at the prescribed time before the date of the expiry of the current certificate, and a fresh certificate may be issued by the Board to take effect as from the date of such expiry.

(4) The Board shall have the powers (including any power exercisable with the consent of the Minister) of a local authority under the Dairies Supervision Act, 1901, as amended by subsequent Acts, in respect of dairymen, milk vendors, or other persons engaged, and of dairy premises and milk stores used in the supply, treatment, deposit, storage, distribution, or sale of milk for consumption or use within any milk distributing district.

(5) Where a certificate of registration has been issued by the Board under this Act to any dairyman or milk vendor, such registration shall be a sufficient registration for all the purposes of the Dairies Supervision Act, 1901, as so amended, and it shall not be necessary for a local authority to keep any register under that Act, or for the Minister or the Director of Dairying or a local authority to do any matter or thing under that Act in respect of any such dairyman or
milk

milk vendor; and sections seven and eight of that Act shall not apply in respect of any such dairyman or milk vendor.

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(6) A certificate issued to a milk vendor may contain provisions prohibiting such milk vendor from treating, depositing, storing, distributing, or selling milk except at the milk store or within the area or part thereof specified in the certificate. Any milk vendor who contravenes any such provision contained in the certificate of registration issued to him shall be guilty of an offence against this Act.

(7) A certificate may be issued and may be transferred in the manner prescribed by the by-laws upon payment of such fee (if any) as is prescribed.

37. (1) The Board may refuse to issue a certificate of registration to, or may cancel the certificate of any person—

Refusal or cancellation of registration.

cf. Act No. 59, 1929, s. 27.

- (a) if he has been convicted of two or more offences against the Dairies Supervision Act, 1901, the Pure Food Act, 1908, the Metropolitan Milk Act, 1929, or this Act or any regulations or by-laws made under any such Act; or
- (b) if in the opinion of the Board he is not a fit and proper person to hold such certificate; or
- (c) if in the opinion of the Board he has unsuitable dairy premises, milk store, vehicle, or equipment; or
- (d) if in the opinion of the Board the business carried on or proposed to be carried on by such person is an unnecessary agency.

(2) The Board may refuse to issue a certificate of registration, or may cancel or alter the certificate of any person by adding thereto or excluding therefrom any areas or parts thereof, if such refusal, cancellation, or alteration is necessary to the effective exercise of the powers conferred on the Board by this Act.

(3) (a) Before exercising the power of cancellation under subsection one of this section upon any of the grounds specified in paragraphs (a) and (b) thereof

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thereof the Board shall in the manner prescribed by the by-laws notify the person whose registration it is proposed to cancel of the decision of the Board.

(b) The person so notified or any person whose application for registration has been refused upon any of such grounds may in the manner and within a time prescribed by the by-laws appeal against the decision of the Board to a court of petty sessions holden before a stipendiary or police magistrate.

(c) The magistrate shall inquire into the circumstances of the case, including, in regard to refusal or cancellation of a certificate under paragraph (a) of subsection one of this section, the nature of the offences for which the appellant has been convicted, and shall decide upon the appeal.

The magistrate's decision shall be final and shall be given effect to by the Board.

Further powers of the board.

38. The Board may, with the approval of the Governor, exercise any of the following powers, that is to say—

- (a) engage in the collection, treatment and/or wholesale or retail distribution of milk on its own behalf;
- (b) purchase, acquire, lease, or rent the undertaking or portion of the undertaking of any milk vendor;
- (c) manufacture, distribute, and sell milk products and ice;
- (d) establish and conduct cool stores;
- (e) establish and conduct milk stores and distribute and sell milk, milk products, ice, and other foodstuffs.

Functions of the Board.

39. The Board shall—

- (a) carry on research and investigation relating to milk and milk products (including chemical, physical, bacteriological, and economic research);
- (b) devise and initiate as far as may be practicable improved methods of producing, collecting, treating, carrying, delivering, and distributing milk (including the distribution of milk in sealed containers);

(c)

- (c) devise and initiate as far as may be practicable means to prevent or eliminate wasteful, unnecessary, or unhygienic agencies, methods, practices, costs, or charges in connection with the production, collection, treatment, carriage, distribution, or sale of milk ;
- (d) publish reports, information, and advice concerning the production, collection, treatment, carriage, delivery, keeping, storing, preservation, and use of milk, and by these and other means encourage the consumption of milk ;
- (e) report to the Minister from time to time upon matters affecting the milk supply and recommend such amendments of the law as may to it seem advisable ;
- (f) establish grades of milk, including a grade of milk suitable for the use of infants, and a grade of raw milk produced on dairy premises situate within or adjacent to any milk distributing district to which this Act applies.

40. (1) The Board with the consent of the department or other authority concerned, which consent such department or other authority is hereby authorised to give, may authorise any officer of such department or of any municipality or shire or any member of the police force to act in its behalf, and persons so authorised shall when so acting be deemed officers of the Board.

Officers of other authorities acting on behalf of the Board.

(2) The Board shall pay to the departments or authorities concerned such contributions towards the salaries and expenses of officers authorised to act on its behalf, or towards the costs of services carried out on its behalf, as may be arranged or prescribed by the by-laws.

41. Every person who—

- (a) resists or obstructs any officer of the Board in the course of his duty ; or
- (b) refuses to give information, or gives false information in answer to any inquiry made by any officer in the course of his duty ; or

Offences.
cf. Act No. 59, 1929, s. 29.

(c)

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- (c) refuses or neglects to comply with any order, notice, prohibition, or requirements of the Board, or of an officer lawfully made under this Act or the regulations or by-laws made thereunder; or
- (d) being the holder of a certificate issued under paragraph (a) of section twenty-five, sells or distributes or supplies for sale milk of a grade other than that which he is authorised in the certificate to sell, distribute, or supply; or
- (e) sells or supplies milk to a person carrying on the business of a milk vendor who is not the holder of a certificate of registration issued by the Board; or
- (f) is guilty of an offence against this Act, or by any act or omission is guilty of any contravention of this Act or of any notification made thereunder or any regulation or by-law for which no specific penalty is provided,

shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Application
of Royal
Commissions Act,
1923.
cf. Act No.
59, 1929,
30.

42. For the purpose of conducting any public inquiry under this Act, the Board or the person conducting the inquiry shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon a commissioner appointed under Division 1 of Part II of the Royal Commissions Act, 1923, and the said Act, section thirteen and Division 2 of Part II excepted shall, mutatis mutandis, apply to any witness summoned by or appearing before the Board or such person.

PART IV.

FINANCE.

DIVISION 1.—*Funds.*

43. (1) The Board shall establish such funds and accounts as are prescribed by regulation.

Funds and
accounts.
cf. Act No.
59, 1929,
s. 34.

(2) The Colonial Treasurer may advance such moneys to the Board or guarantee such advances by a bank as the Governor may approve, upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The regulations may prescribe special funds for the purpose—

- (a) of providing compensation to dairymen in respect of animals destroyed on account of tubercle or other disease, with a view of keeping the herds free from disease ;
- (b) of organising, subsidising, or otherwise encouraging educational and experimental work for the improvement of the milk supply (including the methods of production, treatment, and distribution) or for effecting any other purpose which the Board may determine to be in the common interest of the producers and consumers of milk.

(4) There shall be paid to the credit of the funds of the Board all moneys collected, received, or recovered by the Board in pursuance of this Act, or any regulation or by-law.

(5) The funds of the Board may be operated upon by the Board for the purposes of this Act in the manner prescribed by the regulations.

44. All costs and expenses incurred in the administration of this Act, including the salaries, fees, allowances, and travelling expenses of members of the Board, the salaries, wages, and remuneration of officers and casual employees of the Board, shall be paid out of the funds of the Board.

Application
of funds.
cf. *Ibid.*
s. 35.

No. 59, 1931.

Fixing of fees
and charges.

45. (1) Where under the provisions of this Act the Board—

- (a) makes any registration, or
- (b) issues a certificate, or
- (c) furnishes any information, or
- (d) gives any permission, or
- (e) receives any application for its approval, or
- (f) performs any service,

the fee or charge therefor may be fixed by the by-laws.

(2) In any such by-law provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3) Different fees and charges may be fixed in respect of different dairymen or milk vendors or of different dairy premises or milk stores or of different areas or districts or parts thereof.

DIVISION 2.—*Loans.*

Loans.

46. (1) The Board may borrow money only in accordance with the provisions of this Division.

(2) The Board may with the approval of the Governor borrow money for—

- (a) the purpose of carrying out and performing any of its powers, duties, and functions ;
- (b) the renewal of loans ; and
- (c) the discharge or partial discharge of any indebtedness to the Colonial Treasurer or to any bank.

(3) The Board shall not borrow money in excess of an amount which will bring the total amount of its indebtedness to more than five hundred thousand pounds. The certificate of the Auditor-General as to the total indebtedness of the Board at any time shall, in favour of a lender, be conclusive evidence that the indebtedness stated in the certificate is the total indebtedness of the Board at the date therein specified.

Overdraft.

47. (1) The Board may borrow by way of overdraft from any bank.

Limit of
overdraft.

(2) The amount which the Board may borrow under this section shall not exceed the amount specified by the Governor from time to time.

48.

48. (1) Loans raised by the Board shall be secured— No. 59, 1931.

(a) firstly upon the property (if any) expressly charged; and Security for loans.

(b) secondly upon the property and income of the Board.

(2) This section shall not affect the order of priority of loans or prejudice or affect the power of the Board to sell or convey any property vested in it free of any charge imposed by this section.

(3) For the purpose of security for loans raised under this Act, the approval of the Governor shall be conclusive evidence that the provisions of this Act with respect to the loan have been duly complied with.

49. (1) There shall be a reserve for loan repayments in respect to any renewal or other loan or any part thereof raised by the Board. Reserves for repayments. Act No. 41, 1919, s. 18.

(2) The Board shall during each year transfer to the reserve for loan repayment a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in respect of that loan or paid directly to the lender or used for the provision or purchase of other land or property.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia, or in such other securities as the Governor may approve or as may be prescribed by the regulations.

Any interests or profits realised on such investments shall be added to and form part of the reserve for loan repayments.

All moneys paid into the reserve for loan repayment may be applied in or towards repayment of any renewal loan raised, but except where otherwise provided, may not be applied for any other purpose.

(5)

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(5) If, after a loan has been repaid, there remains in the reserve for loan repayment in respect of that loan any balance, such balance may be transferred to the current account of the Board.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve is provided.

Debentures,
&c.

Act No. 41,
1919, s. 188.

50. (1) For securing repayment of the principal and interest on any moneys borrowed, the Board may issue debentures or inscribed stock in the manner prescribed by the regulations.

Transfer of
debentures,
&c.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

Interest.

Ibid. s. 191.

(4) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not, shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

Exchange
debenture,
&c.

51. Debentures and inscribed stock of the Board may be purchased by the Board out of moneys held as a reserve for the repayment of the loan for which they were issued at or below their face value.

Any debenture or inscribed stock so purchased shall be cancelled.

Trustees.

Ibid. s. 191.

52. (1) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act replacing the said Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys. (3)

(3) No notice of any trust expressed, implied, or constructive shall be received by the Board or by any officer of the same in relation to any debenture or coupon issued or stock inscribed by the Board. No. 50, 1934,

53. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof. Lost debentures, Act No. 41, 1919, s. 192.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

54. (1) If for six months default is made by the Board in making any payment, whether of principal or interest, to the holder of any bond, debenture, or coupon issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, Receivers and managers, Act No. 50, 1924, s. 80.

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jurisdiction, in accordance with rules of court, for the appointment of a receiver and manager of the income and property of the Board.

(2) A receiver and manager may be appointed in respect of the income and property of the Board either generally or as regards specified income or property.

(3) The court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver and manager ;
- (b) the removal of a receiver and manager ;
- (c) the appointment of a receiver and manager in place of a receiver and manager previously appointed.

(4) The receiver and manager shall be deemed to be an officer of the court, and shall act under its directions.

Powers and duties of receiver and manager.

Act No. 50, 1924, s. 81.

55. (1) A receiver and manager shall have power to collect all income, and in particular all dues, fees, and charges payable to the Board, and for the purpose of this subsection shall be deemed to be the Board, and may exercise all the powers of the Board.

(2) The receiver and manager shall discharge such duties of the Board and of any officer of the Board as may be prescribed by the regulations, or as the court directs.

Commission to receiver and manager.
Ibid. s. 82.

56. The receiver and manager shall be entitled to such commission or remuneration for his services as the court may order, and the commission or remuneration shall be payable out of the property or income for and in respect of which he has been appointed receiver and manager.

Application of moneys received.
Ibid. s. 83.

57. The receiver and manager shall, subject to any order of the court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration ;

(b)

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

(c) thirdly, in payment of all the residue of the moneys to the Board.

58. If default is made by the Board in the repayment of any sum due to the Colonial Treasurer or to any bank or in the payment of any sum against the payment of which the Board is required by this Act to indemnify any person or body, the Colonial Treasurer, bank, person, or body, may apply to the Supreme Court in its equitable jurisdiction for the appointment of a receiver and manager of the income and property of the Board, and the provisions of the last four preceding sections shall extend, mutatis mutandis, to such receiver and manager.

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Receiver and manager in other cases. cf. Act No. 50, 1924, s. 70 (3).

59. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection of investors.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and that the prescribed limits of borrowing have not been exceeded.

60. If the Board borrows any money without having first obtained the approval of the Governor, every member of the Board holding office who has knowingly and wilfully, or for any personal benefit or advantage, consented to the borrowing, shall be liable to a penalty of five hundred pounds and shall be disqualified from holding office.

Penalty for illegally borrowing.

An action to recover the penalty shall not be taken without the written consent of the Attorney-General first obtained.

DIVISION

DIVISION 3.—*Accounts and audit.*

Accounts.

61. The Board shall cause to be kept proper books of account, and shall, as soon as practicable after the thirtieth day of June in each year prepare and transmit to the Minister for presentation to Parliament statements of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Board.

Report.

62. (1) The Board shall prepare an annual report of its operations and such statements of account as are prescribed by regulations. The report and statements shall be laid before both Houses of Parliament.

Audit.

(2) The accounts of the Board shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the Board and its officers in the same manner as it applies to accounting officers of public departments.

(3) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

(i) due diligence and care have been shown in the collection and banking of income; and

(ii) the expenditure incurred has been duly authorised, vouched, and supervised; and

(iii) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

Costs of audit.

(4) Towards defraying the costs and expenses of such audit the Board shall pay to the Consolidated Revenue Fund such sums at such periods as the Colonial Treasurer may decide.

63. Regulations may be made for carrying this Division into effect, and in particular for and with respect to—

- (a) the books of account and the entering of accounts therein ;
- (b) the collection and banking of moneys ;
- (c) the classification of ledger accounts ;
- (d) the charging of expenditure against, and the definition of income, net income, and capital ;
- (e) the distribution of rates, dues, charges, earnings, and receipts, to income and capital ;
- (f) the charging of depreciation ;
- (g) the correction of the accounts and of omissions therefrom ;
- (h) the form, preparation, entering, and furnishing to the Minister of statements of accounts ;
- (i) the publication of statements of accounts ;
- (j) requiring the Board to furnish to the Minister information as to the action taken to deal with matters reported by the Auditor-General.

No. 59, 1931.
Regulations.
cf. L.G. Act,
1919, s. 213.

PART V.

ACQUISITION OF PROPERTY.

DIVISION 1.—*Acquisition of land.*

64. The Board may acquire land for any purpose of this Act by lease, purchase, appropriation or resumption in accordance with this Division.

How to acquire
and.
cf. Act No. 41,
1919, s. 532.

65. The acquisition of land by the Board by lease for a term exceeding two years shall not have effect unless and until approved by the Governor.

Lease.
cf. *Ibid.*
s. 533.

66. The acquisition of land by the Board by purchase for any sum exceeding five hundred pounds shall not have effect unless and until approved by the Governor.

Purchase.
cf. *Ibid.*
s. 534.

67. (1) Where the Board proposes to acquire land by appropriation or resumption it shall apply to the Governor through the Minister.

Method of
resumption
of land.
cf. *Ibid.*
s. 536.

(2)

No. 59, 1931.

(2) The Board shall make provision to the satisfaction of the Governor for the payment of compensation for the land together with interest and all necessary charges incidental to the appropriation or resumption.

(3) The Governor may authorise the appropriation or resumption of the land.

(4) Thereupon the Minister for Public Works may—

(a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the Board.

(5) Thereupon the land shall vest in the Board.

(6) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(7) The Minister for Public Works shall upon the resumption forthwith give to the Registrar-General the notice thereof prescribed under the Conveyancing Act, 1919-1930.

DIVISION 2.—*Acquisition of undertakings.*

Definition.

68. In this Division “undertaking” means the business of a person engaged in the collection, treatment, storage, distribution, or sale of milk, and includes any land, vehicles, machinery, equipment, and plant mainly used in connection with such business, and “owner” in relation to an undertaking means the person carrying on such business.

Resumption
of under-
taking.

69. (1) If the Board determines that an undertaking or part of an undertaking should, in the public interest, be taken over by the Board, it may apply to the Governor through the Minister.

(2) The Board shall make provision to the satisfaction of the Governor for payment of compensation, interest, and all necessary costs and charges incidental to the taking over of the undertaking or part thereof.

(3)

(3) The Governor may authorise the Board to take over the undertaking or part thereof. No. 59, 1931.

(4) The Board may notify the owner of the undertaking that as from a date to be specified in the notice, not less than one month after the service of the notice, the undertaking shall be taken over by the Board, and thereupon the following provisions shall have effect :—

- (a) such owner may, by notice in or to the effect of the prescribed form, require the Board to purchase the vehicles, machinery, equipment, and plant, and his estate or interest in any land mainly used by him in connection with the business or the part thereof to be so taken over ;
- (b) any such vehicles, machinery, equipment, and plant shall be purchased at a price which shall not exceed the then replacement value of similar vehicles, machinery, equipment, or plant, having regard to their age and condition at the time of their being actually handed over to the Board, together with a sum equal to ten per centum of such value ;
- (c) any land shall be paid for at the then market value of the estate or interest of such owner therein ;
- (d) the Board may at any time after the expiry of seven days from the receipt of a notice requiring the Board to purchase, and shall not later than one month from the receipt of the notice, take possession of the vehicles, machinery, equipment, and plant, and the land of such owner on a date notified to such owner and the day of such taking possession shall be the date as at which the values shall be ascertained ;
- (e) such owner shall satisfy the Board that his title to the land is a good marketable title, and shall obtain the concurrence in the assurance thereof to the Board of any mortgagee thereof
and

No. 59, 1931.

and of any person entitled to any interest in the vehicles, machinery, equipment, and plant purchased.

Valuation.
cf. Act No.
18, 1930,
s. 159.

70. (1) Upon receipt of a notice from an owner requiring the Board to purchase his undertaking or part thereof, the Board shall forthwith cause a valuation to be made of the land, machinery, equipment, and plant involved.

(2) The Board may with the approval of the Minister in charge of the department concerned make use of the services of any of the officers of the Public Service for the purpose of making the valuation.

(3) For the purpose of valuation the owner of any such undertaking shall permit any person authorised by the Board so to do to enter his premises at any reasonable time, and to make full inspection of land, vehicles, machinery, equipment, and plant used in connection with the business.

(4) In valuing any such undertaking for the purposes of this section that part of the value of the undertaking attributable directly or indirectly to this Act shall not be taken into account.

(5) No compensation shall be payable in respect of goodwill.

(6) The Board shall determine the amount to be paid, and notify the owner in the manner prescribed by the regulations.

Appeal.
cf. *Ibid.*
s. 160.

71. (1) If such owner is aggrieved by the determination of the Board, he may appeal therefrom in accordance with rules of court of the Land and Valuation Court, and jurisdiction is hereby conferred on the Land and Valuation Court to hear and determine any such appeal.

(2) Pending such appeal the property shall be handed over to the Board.

Interest.
cf. *Ibid.*
s. 161.

72. The amount payable under the provisions of this Division upon the taking over of an undertaking shall carry interest at the rate of four pounds per centum per annum as from the date upon which the Board takes possession of the land, vehicles, machinery, equipment, and plant until the date of payment.

73.

73. Until the date notified by the Board as the date at which the land, vehicles, machinery, equipment, and plant are to be taken possession of by the Board the owner of the undertaking shall continue to carry on the business in a manner equally as satisfactory as it was carried on before the notice pursuant to section sixty-nine of this Act was given by the Board, and if, in the opinion of the Board, the business is not so carried on the Board may give notice to the owner specifying the particular matters which are unsatisfactory, and requiring the owner to remedy the same within a time specified in the notice, and in default of compliance with such notice the Board may, at its option—

No. 59, 1931.
 Owner to carry on until undertaking handed over.

- (a) rescind the notice given pursuant to section sixty-nine of this Act and thereupon the obligation of the Board to purchase the undertaking of such owner or to pay any amount in connection therewith shall be terminated as from the date of the notice of rescission; or
- (b) require that compensation be allowed the Board for any loss arising out of the failure of the owner to carry on the business in a satisfactory manner or to comply with the requirements of any notice of default given by the Board.

74. Nothing in this Division shall preclude the Board from the purchase of any undertaking, but no such purchase shall be made unless the terms of section seventy are complied with and in no instance shall the purchase price exceed the rates laid down in section sixty-nine.

Purchase.
 cf. Act No.
 18, 1930,
 s. 163.

PART VI.

REGULATIONS AND BY-LAWS.

Regulations. **75.** The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed by regulation for giving effect to this Act, and in particular and without limiting the generality of the foregoing power, may make regulations in relation to—

- (a) the funds to be established and the accounts to be kept by the Board;
- (b) the nature and extent of compensation payable under this Act to dairymen;
- (c) the travelling expenses of the members of the Board.

By-laws. **76.** (1) The Board may, with the approval of the Governor, make by-laws not inconsistent with this Act—

- (a) prescribing grades for milk which may be supplied for sale or sold, including the prescribing of different grades for different classes of milk;
- (b) prescribing methods to be followed in the production, collection, treatment, carriage, deposit, storage, distribution, and sale of milk;
- (c) prescribing the maximum temperatures at which milk is to be kept at any and every stage from its production to its delivery to a purchaser for consumption;
- (d) requiring milk of any prescribed grade to be sold in prescribed containers labelled as prescribed;
- (e) prescribing methods of dealing with milk which does not comply with the requirements of the Act or of the Board;
- (f) prescribing methods of cleansing and sterilising cans, vessels, utensils, appliances, and equipment used in connection with the production, deposit, storage, collection, treatment, carriage, distribution, supply or sale of milk;

(g)

- (g) prescribing the particulars of their herds to be kept by dairymen ;
- (h) prescribing the books and records to be kept by persons engaged in the treatment, carriage, deposit, storage, distribution, or sale of milk ;
- (i) providing for the inspection of dairy premises and milk stores ;
- (j) defining the duties and powers of officers and employees of the Board ;
- (k) providing for the fixing, collection, and recovery of fees, dues, and charges, and providing for the fixing of different fees, dues, and charges, or different methods of collection in respect of different dairymen or milk vendors, or of different districts or sub-districts or parts thereof, including the collection and recovery of such fees, dues, and charges from moneys held by the Board or any person to the credit of any person liable in respect of any fees, dues, or charges ;
- (l) prescribing forms for use under this Act ;
- (m) prescribing the methods of giving or serving notices, orders, demands, or requirements by the Board or any officer ;
- (n) prescribing periods of time in respect of which computation of or accounting for the net proceeds may be made ;
- (o) prescribing all matters which by this Act are required or permitted to be prescribed by by-laws.

All by-laws made for the purposes set out in paragraphs (a), (b), (c), (d), or (f) of this subsection shall before publication be approved of by the Board of Health.

(2) Different by-laws may be made and applied to different districts or sub-districts or parts thereof.

77. (1) Any regulation or by-law so made may impose a penalty not exceeding twenty pounds for any breach thereof or, where the breach is a continuing one, not exceeding two pounds for every day during which the breach continues.

Regulation or
by-law—
penalty for
breach.

(2)

- (2) A by-law may—
- (a) provide that in addition to a penalty any expense incurred by the Board in consequence of a breach of the by-law shall be paid by the person committing such breach;
 - (b) provide for the payment of reasonable fees, including fees for inspections and for services rendered by the Board.
- (3) Any regulations or by-laws so made shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in such regulations or by-laws; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations or by-laws have been laid before such House disallowing any regulation or by-law or part thereof, such regulation, by-law, or part shall thereupon cease to have effect.

PART VII.

SUPPLEMENTAL.

Power to insure.

78. The Board may insure any property vested in it, or any property of which it has entered into possession pursuant to section sixty-nine of this Act, and for the purpose of any such insurance shall be deemed to have an insurable interest in the property. Any such insurance shall be effected with the Government Insurance Office of New South Wales.

Power to impose conditions and fix liquidated damages.

79. The Board may in any agreement, authority, license, or certificate, insert conditions and fix a sum as and by way of liquidated damages for any breach of conditions which damages shall be recoverable accordingly.

80. (1) Any information, complaint, or other legal proceeding under this Act may be taken in the name of the Milk Board by the secretary or by any other officer authorised by the Board in that behalf either generally or in any particular case. No. 59, 1931. Information. cf. Act No. 59, 1929, s. 40.

(2) In any proceedings the production of a notification in the Gazette that any person has been so authorised shall be conclusive evidence of the authority and evidence that his authority to act remains in force.

(3) The secretary or other officer shall, out of the funds of the Board, be reimbursed all damages, costs, charges, and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection one of this section.

81. A writ or other process shall not be sued out or served upon the Board, or any member thereof, or any officer of the Board, or any person acting in his aid, for anything done or intended to be done or omitted to be done under the provisions of this Act, until the expiration of one month after notice in writing has been served on the Board or such member, officer, or person, clearly stating the cause of action and the name and place of abode of the intended plaintiff, and of his solicitor or agent in the case, and on trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice served; and unless such notice is served a verdict shall be found for the defendant. Notice of action. cf. Act No. 50, 1924, s. 132 (3).

82. The Superannuation Act, 1916-1930, is amended by inserting in Schedule III the words :— Amendment of Act No. 28, 1916.

The Milk Board in respect of any officer or employee transferred to it in pursuance of the Milk Act, 1931, who is a contributor to the fund or is entitled to benefits under this Act :

Provided that the cost of the employers' contribution which is in excess of the rate for age contribution shall be a charge upon the Consolidated Revenue Fund.

SCHEDULE.

FIRST PART—PRODUCING DISTRICTS.

Producing District for the Metropolitan Milk Distributing District.

North:

Municipalities:—
 Cessnock
 Greta
 Maitland East
 Maitland West
 Singleton
 Raymond Terrace
 Morpeth
 Dungog.
 Muswellbrook

Shires:—

Bolwarra
 Kearsley
 Erina
 Lake Macquarie
 Patrick Plains
 Port Stephens
 Tarro
 Wallarobba.
 Muswellbrook

South and West:

Municipalities:—
 Bowral
 Goulburn
 Mittagong
 Moss Vale
 Camden
 Picton
 Campbelltown
 Windsor
 Richmond
 Castlereagh
 Penrith
 St. Mary's.

Shires:—

Nattai
 Wingecarribee
 Wollondilly
 Baulkham Hills
 Blacktown
 Nepean
 Blue Mountains
 Colo.

South Coast:

Municipalities:—
 Illawarra Central
 Illawarra North
 Shellharbour
 Wollongong
 Berry
 Broughton Vale
 Gerringong
 Jamberoo
 Kiama
 Nowra
 Shoalhaven South.

Shires:—

Bulli
 Cambewarra
 Clyde.

Metropolitan:

Municipalities:—

Alexandria
 Annandale
 Ashfield
 Auburn
 Balmain
 Bankstown
 Bexley
 Botany
 Burwood
 Cabramatta and Canley
 Vale
 Canterbury
 Concord
 Drummoyne
 Dundas
 Eastwood
 Enfield
 Ermington and Rydalmere
 Fairfield
 Granville
 Holroyd
 Homebush
 Hunter's Hill
 Hurstville

SCHEDULE

SCHEDULE—*continued.*

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FIRST PART—PRODUCING DISTRICTS—*continued.**Producing District for the Metropolitan Milk Distributing District—continued.*Metropolitan—*continued.*Municipalities—*continued.*

Ingleburn
Kogarah
Ku-ring-gai
Lane Cove
Leichhardt
Lidcombe
Liverpool
Manly
Marrickville
Mascot
Mosman
North Sydney
Parramatta
Randwick

Metropolitan—*continued.*Municipalities—*continued.*

Rockdale
Ryde
St. Peters
Strathfield
Vaucluse
Waterloo
Waverley
Willoughby
Woollahra.

Shires:—

Hornsby
Sutherland
Warringah.

SECOND PART—DISTRIBUTING DISTRICTS.

Metropolitan Milk Distributing District.

Municipalities:—

Sydney, Alexandria, Annandale, Ashfield, Auburn, Balmain, Bankstown, Bexley, Botany, Burwood, Cabramatta and Canley Vale, Canterbury, Concord, Darlington, Drummoyne, Dundas, Eastwood, Enfield, Ermington and Rydalmere, Erskineville, Fairfield, Glebe, Granville, Holroyd, Homebush, Hunter's Hill, Hurstville, Ingleburn, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Lidcombe, Liverpool, Manly, Marrickville, Mascot, Mosman, Newtown, North Sydney, Paddington, Parramatta, Petersham, Randwick, Redfern, Rockdale, Ryde, St. Peters, Strathfield, Vaucluse, Waterloo, Waverley, Willoughby, Woollahra.

Shires:—

Baulkham Hills (B and C Ridings), Hornsby (B and C Ridings), Sutherland, Warringah.

DEBT