

## New Zealand.



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1898, No. 22.

AN ACT to regulate the Inspection of Dairies, and the Manufacture, Inspection, Sale, and Export of Dairy Produce, and also to assist the Dairy Industry by providing for Government Advances to Dairy Companies. Title.  
[5th November, 1898.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is “The Dairy Industry Act, 1898,” and it shall come into operation on the first day of January, one thousand eight hundred and ninety-nine. Short Title.

2. This Act is divided into Parts, to wit,—

Part I.—Dairy Produce and Dairies : Sections six to twenty-nine inclusive. Act divided into Parts.

Part II.—Government Advances to Dairy Companies : Sections thirty to fifty-three inclusive.

3. In this Act, if not inconsistent with the context,—

“Butter-fat” means the pure fat of milk: Interpretation.

“Contagious or infectious disease,” in the case of human beings, means any disease which the Governor, by Order in Council gazetted, declares to be a contagious or infectious disease within the meaning of this Act:

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

“Dairy” means—

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

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

“Dairy company” means a company limited by shares, registered under “The Companies Act, 1882,” and formed for the purpose of establishing and carrying on a dairy factory, and disposing of dairy produce:

“Dairy factory” means butter-factory or cheese-factory, and includes creameries and skimming-stations:

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

“Disease,” in the case of other than human beings, means any disease within the meaning of “The Stock Act, 1893”:

“Infected” means infected with disease:

“Milk” means the milk of cows, goats, and sheep:

“Minister” means the Minister for Agriculture:

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

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

“Prescribed” means prescribed by regulations under this Act :

“Pure milk” means the whole of the milk (including what is commonly known as the “strippings”) drawn at the time of milking ; but does not include milk which contains less than three per centum of butter-fat, or is mixed with any preservative or chemical or colouring matter of any kind whatsoever :

“Stock” means stock as defined by “The Stock Act, 1893” :

“This Act” includes regulations made under and consistent with this Act.

Repeal.

4. “The Dairy Industry Act, 1894,” is hereby repealed : Provided that such repeal shall not affect —

Saving.

(1.) Any regulation or Order made by the Governor or the Governor in Council under such repealed Act, and in force at the coming into operation of this Act, but every such regulation or Order shall continue in force until revoked under this Act ; nor

(2.) Any certificate of registration or otherwise lawfully issued under such repealed Act, and in force at the coming into operation of this Act, but every such certificate, unless sooner cancelled by an Inspector under this Act, shall continue in force until and shall expire on the thirtieth day of June, one thousand eight hundred and ninety-nine.

Certain provisions of other Acts not affected.

5. Except in so far as the Governor by Order in Council otherwise directs, nothing in this Act contained shall affect the operation of any of the following enactments in so far as they relate to dairy produce or dairies, that is to say,—

(1.) Sections eighty to eighty-three of “The Public Health Act, 1876” ; or

(2.) Section three of “The Public Health Act 1876 Amendment Act, 1881” ; or

(3.) “The Adulteration Prevention Act, 1880,” or its amendments ; or

(4.) Paragraphs (d) and (e) of section four hundred and twenty-two of “The Municipal Corporations Act, 1886,” relating to the power of the Council to make by-laws in respect of the public health and convenience :

Provided nevertheless as follows :—

(a.) No person shall be punished twice in respect of the same offence ;

(b.) Compliance with any specified provision of this Act shall be deemed to be a sufficient compliance with the corresponding provision of any such enactment, or of any by-law thereunder.

## PART I.

### DAIRY PRODUCE AND DAIRIES.

#### *Officers.*

Power to appoint Inspectors and Analysts.

6. (1.) The Governor may from time to time appoint such Inspectors, Analysts, experts, and other officers as he deems necessary for the purposes of this Act, and may also prescribe their powers and functions.

(2.) All Inspectors and other officers appointed under "The Dairy Industry Act, 1894," hereinbefore repealed, shall be deemed to have been appointed under this Act. Appointments saved.

(3.) All Inspectors under "The Stock Act, 1893," shall be deemed to be Inspectors under this Act.

(4.) Every Inspector under this Act shall, for the purposes of this Act, have all the powers and functions of an Inspector under "The Stock Act, 1893," and also of an Inspector under "The Adulteration Prevention Act, 1880." Powers of Inspectors.

7. Every Analyst under this Act shall, for the purposes of this Act, have all the powers and functions of an Analyst under "The Adulteration Prevention Act, 1880." Powers of Analysts.

#### *Inspection and Sanitation.*

8. In the exercise of his functions under this Act an Inspector may do the following things, that is to say,— Powers of Inspectors for entry, inspection, taking samples, and opening packages.

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

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

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

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

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

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

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

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

(5.) That any person employed in or about a dairy is affected with any contagious or infectious disease, or is a member of a household wherein any person is affected with any such disease ; or

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

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

What matters may be included in such order.

10. For the purposes of the last-preceding section hereof the Inspector may, by any such order as aforesaid,—

- (1.) Order any dairy, utensil, machinery, apparatus, or work, building, conveyance, or ship, as the case may be, to be forthwith cleansed, disinfected, and rendered wholesome to his satisfaction; or
- (2.) Forbid the same to be used in any way for the purposes of dairy produce, either absolutely or until all defects have been remedied to his satisfaction, or for such time as he thinks necessary; or
- (3.) Order any stock condemned by an Inspector of Stock to be forthwith removed and dealt with as diseased stock; or
- (4.) Forbid the removal from a dairy of any dairy produce for such time as he thinks necessary.

Unfit dairy produce may be condemned.

11. The Inspector shall, by order under his hand delivered to the owner, consignee, or person in charge, condemn any dairy produce whenever he is satisfied that such produce is unfit for human consumption; and all dairy produce so condemned shall be disposed of in such manner as is prescribed.

Duties of owner where stock diseased, or person affected with disease.

12. In every case where disease appears in any stock in or about a dairy, or where any person living or working in or about a dairy is found to be affected with any contagious or infectious disease, the following provisions shall apply:—

- (1.) The owner or occupier of the dairy shall forthwith draft out and at all times keep separate all such diseased stock from the stock not suffering from disease:
- (2.) He shall also at all times prevent the milk or cream obtained from such diseased stock being mixed with other dairy produce or being in any way sold or used for food:
- (3.) He shall also, as far as practicable, isolate and keep isolated every person so affected with any contagious or infectious disease.

List of customers and other information to be furnished.

13. Whenever requested by an Inspector so to do, the owner or person in charge of a dairy shall—

- (1.) Furnish to the Inspector a list of the customers or other persons supplying milk or cream to such dairy, or supplied with dairy produce from such dairy; and also
- (2.) Furnish to the Inspector any personal assistance and information in his power in order to enable the Inspector to search for and discover any source of contamination, infection, or disease to which any stock or dairy produce may be exposed.

Statistics to be supplied to Minister.

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

Pigs not to be kept near a dairy.

15. No person shall keep pigs or permit them to be kept within fifty yards of any dairy within the meaning of paragraph (a) of the definition of "dairy" in section three hereof, or within that distance of the open water-supply of such dairy.

16. No person shall permit any fowl-house, manure-heap, cess-pool, or closet to be within thirty feet of any dairy as last aforesaid or of any enclosed yard or building where cows are kept.

Certain nuisances and conveniences to be 30 ft. distance from a dairy.

17. No person owning or having charge of stock or pigs shall permit drainage therefrom to flow into, or (unless in a properly enclosed drain) within fifty yards of, any such dairy as last aforesaid, or the open water-supply thereof, or any enclosed yard or building where cows are kept.

Drainage not to flow into dairy or yard.

#### *Sale of Dairy Produce.*

18. No person shall sell or offer or expose for sale, or shall export or attempt to export, any dairy produce which—

Certain dairy produce not to be sold or exported.

- (1.) Is affected or infected with disease; or which
- (2.) Has been near to or in contact with any person, stock, or thing affected or infected with disease; or which
- (3.) For any other reason is likely to endanger the public health; or which
- (4.) Is marked with any other weight than the true net weight thereof; or which
- (5.) Is contained in any package marked with any weight other than the true net weight of the dairy produce contained therein; or which
- (6.) Is contained in any package marked with any grade-mark or brand not properly pertaining to the contents; or which
- (7.) Has been condemned by an Inspector.

19. No person shall—

- (1.) Mix with or add to dairy produce, or use in the manufacture thereof, any extraneous ingredient of any description; nor
- (2.) Manufacture any dairy produce from other than milk or cream; nor
- (3.) Knowingly sell any such produce:

Dairy produce not to be adulterated.

Provided that, except in so far as is otherwise provided by regulations under this Act, nothing in this section contained shall be construed to prevent pure sugar, common salt, or any harmless coagulative, preservative, or colouring ingredient or constituent being used in the manufacture of dairy produce.

20. No person shall sell or supply to a dairy for any purpose whatsoever, or to any person for human consumption,—

- (1.) Any milk or cream which is tainted; or
- (2.) Any milk, or the cream from any milk, which has been drawn from a cow that is suspected or known to be diseased, or that has calved within four clear days before the day on which the milk was so drawn; or
- (3.) Any milk which is not pure milk, except in cases where such person states the fact in writing whenever asked so to do by the person to whom the milk is sold or supplied.

Milk not to be sold if tainted or from diseased animal, or unless pure milk.

21. No person shall supply or sell to a dairy any milk unless such milk has been properly cooled by being passed over a cooler or aerator immediately after being drawn from the cow.

Milk to be cooled or aerated before sale.

Storage in room used for domestic purposes forbidden.

22. No dairy produce intended for sale or supply for profit shall be deposited or stored by any person in any room used for domestic purposes, or in any place calculated to render such produce unwholesome or injurious to health.

Purchaser may take sample of milk or analysis.

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

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

Procedure when sample taken.

24. Forthwith upon taking such sample, the purchaser, in the presence of the seller, shall, if the seller so requires,—

- (1.) Divide the sample into two equal or nearly equal portions and enclose each portion in a clean bottle ;
- (2.) Seal one bottle with his own seal, and permit the seller to seal the other with his own seal ;
- (3.) Retain for analysis the bottle sealed by the seller, and permit the seller to retain the other sealed bottle.

#### *Export of Dairy Produce.*

Appointment of ports for export of dairy produce, also stores.

25. The Governor may from time to time, by Order in Council gazetted,—

- (1.) Appoint any specified ports to be the only ports at which dairy produce, or any specified class or description thereof, may lawfully be exported, either generally or to any specified country or colony ;
- (2.) Appoint fit buildings to be stores for the storage, cooling, or freezing of dairy produce prior to export ;
- (3.) Prescribe the mode in which and the conditions subject to which such stores shall be used under this Act.

Conditions to be complied with before dairy produce exported.

26. No dairy produce shall be shipped or placed on board any vessel for exportation from New Zealand unless—

- (1.) Such dairy produce is in all respects sound, in good condition, and free from disease ; nor unless
- (2.) The requirements of this Act relating to such produce, and to the inspection, grading, and marking thereof, have been duly complied with ; nor unless
- (3.) The vessel is in all respects in a fit and proper condition to receive the dairy produce, and also is properly equipped with all appliances and requisites necessary for the safe carriage thereof in good order and condition through the whole of the intended voyage :

Provided that nothing in this section contained shall apply to dairy produce shipped on any vessel for the sole use of the passengers and crew of the vessel on the intended voyage.

#### *Miscellaneous.*

Penalties for contravention of Act.

27. Every person is liable to a penalty not exceeding fifty pounds who directly or indirectly, by himself, his agent, or servant,—

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

- (2.) Refuses to give information, or gives false information, in answer to any inquiry made by any such officer in the performance of his duty; or
- (3.) Exports or attempts to export, or is concerned in exporting, any dairy produce in contravention of any of the provisions of this Act; or
- (4.) Knowingly makes any statement required by this Act which is false in any material particular; or
- (5.) Commits any breach of any of the provisions of this Act for which no penalty is provided by this Act elsewhere than in this section:

Provided nevertheless as follows:—

- (a.) In any case where any offence under this Act is also any offence under any other Act, proceedings may be taken under either Act; but no person shall be punished twice for the same offence.
- (b.) In any case where any duty or obligation imposed on any person by this Act is also imposed on him by any other Act, compliance with either Act shall be deemed to be compliance with both.

28. The Governor may from time to time, by Order in Council Regulations. gazetted, make regulations consistent with the provisions of this Act for any of the following purposes:—

- (1.) The registration of dairies, or of any specified class or description of dairy.
- (2.) The licensing or registration of persons carrying on the manufacture or sale of dairy produce, or of any specified class or description of dairy produce.
- (3.) The registration of marks, stamps, brands, and labels used for dairy produce, or for any specified class or description of dairy produce.
- (4.) The inspection of cows kept for the purpose of supplying milk to dairies, and of other stock kept upon or about any dairy.
- (5.) The inspection and sanitation of dairies, and of the machinery, utensils, appliances, packages, and conveyances used in or about dairies, or in connection with the manufacture, deposit, or carriage of dairy produce.
- (6.) The inspection, grading, packing, marking, stamping, branding, and labelling of dairy produce.
- (7.) The export of dairy produce, and the inspection and sanitation of ships used for the export of dairy produce.
- (8.) Preventing the infection or contamination of dairy produce.
- (9.) Providing for the pasteurisation or sterilisation of dairy produce at dairy factories or at any specified class of dairy.
- (10.) Preventing the pollution of the water-supply of dairies.
- (11.) Preventing the manufacture, sale, consumption, or export of infected dairy produce, or the manufacture of dairy produce from infected milk or cream.
- (12.) Preventing or limiting the use of preservatives or other ingredients in the manufacture of dairy produce.



- (13.) Prescribing the matters in respect whereof fees are payable under this Act, and fixing the amounts of such fees.
- (14.) Prescribing the form of licenses, certificates, notices, and other documents under this Act.
- (15.) Any other matter for which regulations are contemplated or required by this Act, or which he deems necessary for the efficient administration of this Act.
- (16.) The imposition of penalties not exceeding fifty pounds for the breach of any regulation under this Act.

Application of fees and penalties, and payment of expenses.

29. All fees received and penalties recovered under this Part of this Act shall be paid into the Consolidated Fund, and all expenses incurred in the administration of this Part of this Act shall be paid out of moneys to be appropriated by Parliament.

## PART II.

### GOVERNMENT ADVANCES TO DAIRY COMPANIES.

#### *Advances.*

Applications for loans.

30. Subject to the provisions of this Act, any dairy company which is duly authorised by its articles or rules to borrow money on the security of its assets (including its uncalled capital) may make application to the Minister for a loan under this Act.

Total amount that may be advanced.

31. The total amount that may be advanced or agreed to be advanced in respect of loans under this Act in any one year shall not exceed thirty thousand pounds; and no loan shall be granted or be agreed to be granted after the thirty-first day of March, one thousand nine hundred and four: Provided that all loans then granted or agreed to be granted may be completed thereafter.

Period for advancing loans.

Proviso.

Purposes for which loan may be granted.

32. No loan shall be granted under this Act to any company except for one or more of the following purposes:—

- (1.) The acquisition of land as a site for the company's dairy factory.
- (2.) The erection, acquisition, or extension of suitable buildings for such factory.
- (3.) The supply and erection of suitable plant and machinery for such factory.

Particulars to be specified in application.

33. The application shall be made in writing under the seal of the company and the hands of at least two of the company's directors, and shall specify—

- (1.) The style of the company, and the date of its incorporation.
- (2.) The names of its directors, and also of its manager, secretary, or other principal officer, and the situation of its registered office.
- (3.) The nominal capital of the company; the number of shares into which the capital is divided; the amount respectively paid up and unpaid per share at the date of the application (distinguishing capital paid up in actual cash from capital paid up otherwise than in actual cash); the total amount of calls then in arrear; and the total amount of the uncalled capital.
- (4.) The amount of the loan applied for.
- (5.) The purpose for which the loan is required.

34. The application shall be accompanied or supplemented by the following documents :—

Documents to be forwarded with application.

- (1.) A certified copy of the company's certificate of incorporation.
- (2.) A copy of the company's memorandum of association, as also of its articles or rules.
- (3.) A list of the names, addresses, and occupations of its shareholders, showing the number of shares held by each, and the amount paid up and unpaid in respect thereof at the date of the application.
- (4.) A copy of a resolution duly passed by the company in special meeting, authorising the directors to borrow under this Act the sum applied for, or such less sum as the Governor in Council may consent to lend.
- (5.) A statement of the total amount of the assets of the company other than in respect of uncalled capital.
- (6.) A statement of the total liabilities of the company other than in respect of capital.
- (7.) A description of the land, buildings, and works (if any) owned by the company at the date of the application, together with a statement of the total actual cost, and the then actual value thereof.
- (8.) A detailed description of the site of the dairy factory, with special reference to the facilities for working and drainage, and the estimated milk-supply.
- (9.) A detailed statement of the particular land to be acquired or works to be constructed by means of the proposed loan, together with plans and specifications thereof, and detailed estimates of the cost.

35. The loan shall not be granted unless and until the company supplies evidence in writing to the satisfaction of the Minister,—

No loan to be granted unless Minister satisfied as to capacity of dairy factory, and as to milk-supply.

- (1.) That the dairy factory will be of sufficient capacity to efficiently manufacture not less than such quantity of dairy produce per working-day as is agreed on between the company and the Minister prior to the grant of the loan.
- (2.) That within a reasonable and practicable radius of the company's factory there is an available supply of milk, in quantities sufficient for the purposes of the factory.
- (3.) That satisfactory contracts have been entered into or arrangements made for the regular supply of milk or cream to the company in quantities sufficient to keep the dairy factory regularly and constantly employed during the ordinary working season to the full extent of its average capacity for a period of not less than three years from the date on which, after the grant of the loan, the company commences the manufacture of dairy produce.
- (4.) That at least one-fourth of the capital has been called up and utilised for the purposes mentioned in section thirty-two of this Act.

36. The foregoing documents and evidence shall be verified by the statutory declarations of persons competent to speak to the facts.

Documents and evidence to be verified.

Security to be valued.

37. (1.) The Minister shall also cause the proposed security for the loan to be examined, valued, and reported on by a competent valuer at the cost of the company.

Valuer's report.

(2.) The valuer's report shall be so framed as to specify separately the respective values of land, buildings, machinery, and uncalled capital constituting such security, and also the total value of all the security, exclusive of the uncalled capital.

Governor in Council may grant loan.

38. After considering the valuer's report, together with the company's application and the documents and evidence furnished by the company as aforesaid, the Minister, if satisfied therewith and with the prospects of the company, shall refer the matter to the Governor in Council, who may decline to grant any loan, or may agree to grant the amount applied for, or such less amount as the Governor in Council may think fit.

Amount of loan.

39. (1.) The amount of the loan shall in no case exceed two thousand pounds, and not more than that sum shall be lent to any one company.

(2.) The amount of the loan shall in no case exceed three-fourths of the uncalled capital of the company at the date of the application for the loan.

Conditions as to loans for constructing dairy factories.

40. In any case where the loan is required in aid of a dairy factory to be constructed by the company, the following provisions shall apply:—

- (1.) The factory shall be constructed under the supervision of an Inspector appointed by the Minister at the cost of the company.
- (2.) Progress payments in respect of the loan shall be made from time to time by the Minister as the work advances, and the final payment shall be made when the work is completed.
- (3.) No such progress payment shall exceed one-half of the actual cost of the work actually done in respect of which such payment is made.
- (4.) No such progress or final payment shall be made except upon the written certificate of the Inspector.
- (5.) Such certificate shall set forth the nature and value of the work actually done, the fact that it has been done to the Inspector's satisfaction, and the amount of the payment to which the company is entitled in respect thereof.

*Repayment of Advances with Interest, and the Security therefor.*

Mode of repayment of loan, and interest thereon.

41. With respect to the repayment of the loan, with interest thereon, the following provisions shall apply:—

- (1.) The amount of the loan, together with interest thereon at the rate of five per centum per annum, shall be repayable by the company by equal half-yearly instalments, extending over such term of years not exceeding fifteen as is agreed on, and the first instalment shall be payable six months after the commencement of such term.
- (2.) Such term shall commence on such date as is agreed on, being in no case later than two years after the first progress or other payment made by the Minister in respect of the loan:

Provided that for the period elapsing between the date of such first progress or other payment and the commencement of such term the company shall at such intervals as the Minister directs (in no case exceeding half-yearly intervals) pay interest at the rate aforesaid on the amount of each such progress or other payment, computed from the date on which the same was made.

- (3.) Every such instalment shall consist partly of principal and partly of interest, and shall be calculated and paid according to a table to be prescribed by regulations under this Act.
- (4.) Such prescribed table shall be computed and framed in the same mode and on the same principle as the table set out in the Second Schedule to "The Government Advances to Settlers Act, 1894."
- (5.) When paying any such instalment on the due date thereof, the company (not being in arrear with any instalment) may also pay in advance any one or more of the next succeeding and consecutive instalments of principal as shown in the prescribed table; and in the case of every such instalment of principal so paid in advance the corresponding instalment of interest as shown in the said table shall not be payable, but the subsequent instalments of principal and interest as shown in the said table shall be deemed to be due and payable at half-yearly intervals thereafter.
- (6.) When paying at its due date any prescribed instalment of principal and interest after the sixth, the company (not being in arrear with any instalment) may, with the consent of the Minister, readjust the loan by treating the balance of principal then unpaid as a fresh loan duly granted on that date.
- (7.) Such readjustment shall be effected by memorandum of readjustment, which shall be signed by the Minister, and duly executed under the seal of the company.
- (8.) The memorandum of adjustment shall be in the prescribed form, and shall specify the amount of the fresh loan, the term thereof, the number of equal half-yearly instalments by which the principal and interest are repayable, the amount of each instalment, and the due date of the first such instalment, being in every case six months after the date on which the fresh loan is deemed to be duly granted as aforesaid.
- (9.) The memorandum of adjustment may be by indorsement on the mortgage executed by the company in respect of the original loan, as hereinafter provided, or by separate instrument, and may be registered in like manner as such mortgage.
- (10.) From and after the due execution of the memorandum of adjustment such mortgage shall operate and be construed in all respects as applying to the fresh loan and the prescribed instalments as specified in such memorandum, in

lieu of to the original loan and instalments as specified in such mortgage.

- (11.) The amount of such fresh loan shall not be deemed to be an advance within the meaning and for the purposes of section thirty-one hereof.
- (12.) All instalments and interest moneys paid by or received from the company shall, as and when received on behalf of Her Majesty, be paid over by the Colonial Treasurer to the Public Trustee, to an account called "The Dairy Industry Advances Account."
- (13.) All moneys in such account shall be invested by the Public Trustee in such authorised investments as will yield the highest rate of interest, and, with all accumulations of interest, shall be held at the disposal of the Colonial Treasurer as and when required by him for the purpose of providing the principal and interest moneys payable in respect of the debentures issued under the provisions in that behalf hereinafter contained, and the costs and expenses connected with the issue or conversion of such debentures.

Company to execute first mortgage over dairy factory and property.

42. Before receiving any progress or other payment in respect of a loan under this Act, the company shall execute, at its own cost and expense in all things, and to the satisfaction of the Minister, a first mortgage in favour of Her Majesty over the dairy factory and all other property and assets whatsoever (present or future) of the company, including its uncalled capital, to secure the repayment of the loan, together with interest thereon as aforesaid, and all other moneys payable by the company under this Act or such mortgage.

Form and conditions of mortgage.

43. (1.) Such mortgage shall be in such form, and shall contain such covenants, stipulations, and conditions not inconsistent with this Act, as the Minister thinks fit.

(2.) The provisions of "The Chattels Transfer Act, 1889," shall not apply to the instrument of mortgage, nor shall it be necessary for any list or description of the mortgaged chattels to be contained therein or in any schedule thereto.

(3.) On full payment and satisfaction being made by the company of all moneys payable under its mortgage, the company shall, at its own cost in all things, be entitled to a release and discharge thereof by instrument executed by the Governor in the name of Her Majesty.

Special provisions as to company to which loan granted.

44. With respect to any company to which a loan is granted under this Act the following special provisions shall apply so long as any liability under this Act or any such mortgage continues, anything in the articles of association or rules of such company, or in any Act, to the contrary notwithstanding:—

- (1.) The half-yearly and other payments to be made under this Act or such mortgage shall, by force of this Act, be a first and floating charge in favour of Her Majesty on the factory and all other present or future property and assets whatsoever of the company (including its uncalled capital).
- (2.) Until all half-yearly and other payments previously due and payable by the company are fully paid, no profits, dividends, bonuses, or other returns shall be paid to its shareholders.

- (3.) The company shall annually set aside, and pay into a special reserve fund, not less than five pounds per centum of its profits for the year.
- (4.) Such reserve fund shall be invested in such securities as the Minister prescribes, and shall not be available for the purposes of the company except in so far as he approves in writing.
- (5.) The profits which, after providing for such reserve fund, may be divided amongst the shareholders in any year shall not exceed six pounds per centum on the paid-up capital, and all surplus profits then remaining shall be paid into such reserve fund.
- (6.) All insurable property of the company shall at all times be kept insured by and at the cost of the company, and to the satisfaction of the Minister, in the name of Her Majesty, in a sum equal to the full insurable value thereof.
- (7.) All buildings, erections, plant, and machinery of the company shall at all times be kept in good and substantial repair and condition, by and at the cost of the company, to the satisfaction of the Minister.
- (8.) The payment of the company's liability and the performance of its obligations under this Act or any such mortgage, and all remedies in respect thereof (including all remedies against any shareholder or other debtor of the company), whether conferred by this Act or the aforesaid mortgage, may be enforced in the name of Her Majesty by the Minister, or any person authorised by him in that behalf, against the company, its assets, property, and uncalled capital (and also against its shareholders and other debtors, in so far as their liability exists), in priority to all other claims whatsoever.
- (9.) The powers and remedies of Her Majesty under this Act, and under any such mortgage, may be exercised and enforced either concurrently with or independently of one another, as the Minister thinks fit.
- (10.) A certificate in writing, purporting to be under the hand of the Minister, shall, until the contrary is proved, be sufficient evidence for all purposes of the amount due and owing to Her Majesty by the company, or by any shareholder or other debtor of the company.
- (11.) Any person authorised by the Minister in that behalf shall have full power at all times to enter on and inspect the company's lands, buildings, and works, and also to inspect and take copies of or extracts from any books, documents, or records of the company.
- (12.) Whenever requested in writing by the Minister so to do, the company, its directors and officers, shall furnish him with any information required by him relating to the company's transactions or business.
- (13.) No capital shall be called up, nor shall any share be transferred, without the previous consent in writing of the Minister or of such person as he authorises in that behalf.

(14.) The Minister may from time to time, by notice in writing addressed to the company at its registered office,—

(a.) Prohibit the company doing anything which in his opinion may prejudicially affect the security for the said loan ; and also

(b.) Direct the company to renew or repair its buildings, plant, or machinery, or to call up capital, or to take any other action which he deems necessary or desirable.

*Enforcement of Security.*

Charge to become fixed when company in default as to advance.

45. The aforesaid floating charge shall, by force of this Act, become a fixed charge forthwith upon the company being in default, and the company shall be deemed to be in default in any of the following cases, that is to say:—

(1.) If it fails or neglects to duly and punctually pay any prescribed instalment in respect of principal or interest, or any other money payable by it under this Act or its mortgage ; or

(2.) If it fails or neglects to faithfully observe and perform any other of the provisions or stipulations of this Act or its mortgage ; or

(3.) If the company or any of its directors or officers fails or neglects to faithfully comply with any direction, prohibition, or order of the Minister, or of any person authorised by him to give the same.

Notice of default.

46. A notice by the Minister in the *Gazette*, declaring that the company is in default, and that the aforesaid floating charge has become a fixed charge, shall be sufficient evidence of the fact.

Powers of Minister therein.

47. (1.) At any time after the company is in default, the Minister, for the purpose of giving effect to the charge created by this Act, and irrespective of his powers under the aforesaid mortgage, may appoint some person on behalf of Her Majesty to enter into full and absolute possession of the dairy factory, and generally of the mortgaged property, or into any part thereof in the name of the whole, and carry on the works at the company's risk and expense, or sell and dispose of the same and generally of the mortgaged property in such manner, at such prices, and on such terms in all respects as he thinks fit, with power to call up capital and otherwise exercise all the powers of the directors as he thinks fit.

(2.) All instruments of assurance, and other instruments of any description necessary for effectuating any of the purposes of this section, may be executed by the Minister on behalf of Her Majesty, and every instrument so executed by him shall be deemed to be executed by Her Majesty.

Directors' powers suspended.

48. Whilst such possession continues the powers of the directors shall be suspended, and shall be exercisable only by the Minister or the person authorised in that behalf by the Minister.

Company may deal with assets when not in default.

49. Until the Minister by notice in the *Gazette* declares that the company is in default, it may dispose of and deal with its assets in the ordinary course of its business, but in no case shall it mortgage or encumber the same or any part thereof without the previous consent in writing of the Minister, so long as any liability continues under this Act or the aforesaid mortgage.

*Debentures.*

50. (1.) For the purpose of providing funds out of which all advances under this Act may be made, the Colonial Treasurer, as often as occasion requires, may raise money from the balances in any of the accounts mentioned in Part VIII. of "The Public Revenues Act, 1891," or in any other account containing public moneys which may lawfully be invested in such securities as the Governor in Council authorises, or from the Public Works Fund, or from any bank, monetary institution, or person, or from any one or more of such sources.

Colonial Treasurer  
may raise money.

(2.) This Act shall be a sufficient authority to the persons having the control of the moneys referred to in this section to lend the same under this Act.

Authority to lend  
same.

51. As security for any money raised by the Colonial Treasurer under this Act, or as satisfaction of any progress or other payment in respect of any advances under this Act in case the company concerned is willing to accept them in lieu of cash, the Colonial Treasurer may create and issue debentures for such amount as is required; and with respect to such debentures the following provisions shall apply:—

Debentures may be  
issued.

- (1.) They shall be in such form and for such amounts and shall have such currency as the Colonial Treasurer prescribes, and shall be signed by him and countersigned by the Controller and Auditor-General.
- (2.) They shall be payable to bearer, and shall bear interest at a rate not exceeding four pounds per centum per annum.
- (3.) They may from time to time be renewed for such period as the Colonial Treasurer thinks fit.
- (4.) They shall be payable both as to principal and interest at the place named in that behalf in the debentures.
- (5.) They shall be numbered consecutively, so that no two debentures bear the same number.
- (6.) The principal and interest moneys payable in respect of the debentures are hereby declared to be a charge upon and shall be payable out of the Consolidated Fund; but for the purpose of providing such moneys as they become due the Colonial Treasurer shall apply the moneys in the Dairy Industry Advances Account; and the Public Trustee shall, without further appropriation than this Act, from time to time pay to him out of the moneys in that account whatever sum he requests for such purpose, or for the purpose of defraying the costs and charges connected with the issue or conversion of the debentures.
- (7.) Every debenture which on its face purports to have been issued under this Act shall, in so far as concerns the holder and his security, be deemed to have been lawfully issued under this Act, and no holder shall be concerned to see or inquire whether or to what extent the power of issue given by this Act has been duly exercised.
- (8.) The Governor in Council may from time to time declare all or any of the debentures to be convertible into stock created or issued under "The New Zealand Consolidated Stock Act, 1877," or "The Consolidated Stock Act, 1884."

Provisions as to  
debentures.



- (9.) All costs and expenses incurred in raising money by the debentures or in converting the same into stock shall be payable out of the Consolidated Fund without further appropriation than this Act, but shall, as soon as practicable, be recouped to that fund out of the moneys in the Dairy Industry Advances Account.
- (10.) The moneys raised by means of the debentures shall be paid into the Consolidated Fund, and to the extent to which such moneys are paid into that fund, but not further or otherwise, all moneys advanced to any company by way of loan under this Act shall, without further appropriation than this Act, be payable out of that fund.

*General.*

52. Within thirty days after the close of each financial year ending the thirty-first day of March there shall be prepared and laid before Parliament, if in session, or, if not in session, then within thirty days after the commencement of the next ensuing session thereof, the statements following, that is to say:—

(1.) By the Colonial Treasurer, a statement showing for such year,—

- (a.) All debentures issued under this Act;
- (b.) All advances by way of loan under this Act, showing separately the amount advanced in money and the amount advanced in debentures;
- (c.) All repayments made in respect of such advances;
- (d.) A report on each company to which any advances have been made, with special reference to its compliance with its obligations under this Act: and

(2.) By the Public Trustee, a statement showing for such year,—

- (e.) All moneys paid into the Dairy Industry Advances Account;
- (f.) All interest received from the investment of such moneys;
- (g.) All moneys paid out of that account to the Colonial Treasurer;
- (h.) The balance in that account at the beginning and at the end of the year.

53. The Governor in Council may from time to time make such regulations as he deems necessary in order to give full effect to the purposes of this Part of this Act.

Statements to be laid before Parliament.

Regulations under this Part.