

Mr. Anderton.

AUCKLAND METROPOLITAN MILK
AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to amend the Auckland Metropolitan Milk Act, 1933. Title.

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

1. This Act may be cited as the Auckland Metropolitan Milk Amendment Act, 1936, and shall be read together with and deemed part of the Auckland Metropolitan Milk Act, 1933 (hereinafter referred to as the principal Act). Short Title.

No. 51—1.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Licensed dairyman ” means a dairyman licensed by the Council to sell or supply milk in or to the milk district: 5

“ Licensed milk-vendor ” means a milk-vendor licensed by the Council to sell milk:

“ The Minister ” means the Minister of Agriculture.

Section 22 of principal Act amended.

3. Section twenty-two of the principal Act is hereby 10 amended by repealing subsection one thereof (the said subsection being set out in section eight of the Auckland Metropolitan Milk Amendment Act, 1935), and substituting therefor the following subsection:—

“(1) The Council may out of its funds pay to each 15 of its members (other than the Chairman) an allowance of one pound one shilling for each meeting of the Council or any Committee thereof attended by him, but not exceeding the sum of seventy-eight pounds in any financial year: 20

“ Provided that the maximum amount which may be paid to any member in respect of any one day shall not exceed one pound one shilling notwithstanding that such member may have attended one or more meetings of the Council or of any Committee thereof on such day.” 25

Power of Council to make special levy to secure loan.

4. (1) The Council may at any time by resolution make a special levy for the purpose of providing security for the repayment of any special loan and payment of interest thereon, and in respect of such levy the following provisions shall apply:— 30

(a) Such special levy shall be on the same persons and on the like basis as the levy authorized by section thirty-five of the principal Act, provided that the maximum rate fixed in section thirty-six of that Act shall not apply 35 to a special levy. The provisions of the principal Act relating to the levy authorized by section thirty-five aforesaid shall apply to such special levy in so far as the same are not inconsistent with the provisions of this section: 40

(b) The special levy may be of such amount per gallon as, in the opinion of the Council, will provide for the interest and principal, or interest and sinking fund, as the case may be, payable in respect of the loan: 45

Provided always that no special levy shall, together with all other special levies (if any) then recoverable or capable of being enforced, exceed the sum of one halfpenny per gallon without the consent of the Minister:

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(c) The special levy (with or without any other security which the Council is authorized to give) may be appropriated or pledged as security for repayment of the special loan and interest thereon as aforesaid, and the provisions of the Local Bodies' Loans Act, 1926, relating to a special rate shall, so far as applicable and consistent with the provisions of this Act, apply, *mutatis mutandis*, to a special levy as aforesaid:

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(d) The resolution making a special levy shall state the date from which it is to take effect, and such levy shall without further proceeding by the Council be payable on all milk subject to levy sold after such date until the loan in respect of which such levy was made is paid off or satisfied, provided always that the Council may resolve that it will out of its General Fund pay in whole or part the interest and principal, or interest and sinking fund, on such loan payable during any period, and that in respect of the milk sold during such period the levy or any part thereof shall not be payable, and the levy or part thereof, as the case may be, shall accordingly not be payable, provided, however, that if default is made in payment of such interest, principal, or sinking fund any moneys which would during the continuance of such default have become payable by virtue of such levy but for such last-mentioned resolution shall be payable and recoverable notwithstanding such resolution. Any resolution suspending payment of a special levy or any part thereof as aforesaid may be revoked at any time as from a date to be fixed by the Council, provided that such revocation shall not be effective until advertised in the manner provided by section thirty-six of the principal Act:

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(e) After any portion of the loan in respect of which a special levy has been made has been raised such levy shall not be quashed or invalidated in any proceedings in any Court, whether commenced before the raising of such portion or not. 5

(2) Nothing in this or the principal Act shall entitle the Council to strike or levy any special or other rate, and the security of any loan raised by it shall be limited to its property and revenue. 10

Power of Council to purchase all milk for district supply.

5. (1) The Council may resolve that on and after a date to be fixed by such resolution, not being earlier than sixty days after the passing thereof, no milk produced on dairy premises, whether within or outside the district, for sale or supply in or to the district shall be sold except to the Council, and on and after such date the Council shall have the sole and exclusive right of purchasing such milk, and it shall be unlawful, notwithstanding anything contained or implied in any then existing license, for— 15

(a) Any person to sell any such milk except to the Council: 20

(b) Any person whomsoever to bring or cause to be brought any milk into the district except for or on behalf of the Council: 25

(c) Any milk-vendor to purchase milk except from the Council or from a milk-vendor whose license from the Council entitles him to sell such milk to such first-mentioned milk-vendor, or to sell or deliver in the district milk purchased otherwise than as aforesaid: 30

(d) Any person other than a milk-vendor to purchase milk in the district except from the Council or a milk-vendor whose license from the Council entitles him to sell such milk to such person. 35

(2) Any such resolution shall be publicly notified in the same manner as a resolution under subsection one of section forty-five of the principal Act.

(3) The powers of the Council to fix, vary, or revoke prices, and all provisions relating thereto contained in the principal Act, shall extend and apply to the prices to be paid or charged by the Council for milk purchased 40

or sold by it or for the treatment of or other service rendered in relation to milk so purchased, and the right of appeal provided by section fifty-four of the principal Act, as amended by this Act, shall apply in respect of
5 any price so fixed.

(4) The passing of such resolution or the rights derived by the Council by reason thereof shall not in any way limit or affect any of the rights and powers of the Council or the obligations of or restrictions imposed
10 upon any person under or by the principal Act.

(5) For the purpose of determining the amount to be paid in respect of milk purchased by it from a dairyman the Council may from time to time prescribe generally or decide in any particular case or class of
15 case the proportion or quantity of such milk which shall be deemed to be surplus milk, and the proportion or quantity which shall be deemed to be or to have been sold or bought for any particular purpose or to be included in any particular category
20 of its price-fixing provisions, and payment shall be made and accepted for such milk as if the proportions and quantities so prescribed or decided were the actual proportions or quantities. Any milk deemed
25 by the Council to be surplus milk shall be paid for on a realization basis, subject to the right of the Council to deduct from the price realized such amount in respect of cartage, handling, treatment, and other services and overhead and administrative expenses as it shall deem reasonable.

30 **6.** Section forty-one of the principal Act as amended by section fifteen of the Auckland Metropolitan Milk Amendment Act, 1935, is hereby further amended by adding after the words "purchase of milk" the words
"from any person including the Council".
Section 41 of principal Act amended.

35 **7.** (1) This section shall apply only in the event of the Council passing the resolution provided for in section five of this Act.
Special provisions relating to purchase of milk by Council from New Zealand Co-operative Dairy Company, Limited.

(2) In this section, unless the context otherwise requires,—

40 "Basic year" means the year ending on the last day of the month immediately preceding the coming into force of this Act:

"Cheese price", where used in relation to the price to be paid or deducted by the Council in
45 respect of any month, means a fair and reason-

able price for milk to be manufactured into cheese, not being less than the most favourable price which the company pays or credits or intends to pay or credit to any of its suppliers for milk supplied to it in that month for manufacture into cheese: 5

“ Company ” means the New Zealand Co-operative Dairy Company, Limited:

“ Factory farm ” means any premises which were licensed dairy premises at the commencement of this Act the milk produced whereon was then being supplied by a licensed dairyman to the East Tamaki Cheese Factory of the company, and any other premises which were licensed dairy premises at the commencement of this Act and from which with the consent of the Council the milk produced thereon is hereafter supplied to such factory: 10 15

“ Licensed dairy premises ” means premises licensed by the Council to be used as a dairy, or from which in terms of any license granted by the Council milk is authorized to be supplied to the milk district: 20

“ Supply year ” means the year commencing on the date fixed by the resolution aforesaid, and any year commencing on the anniversary of such date: 25

“ Town milk ” means milk, including cream, required for the supply of the district:

“ Town milk price ” means the price fixed by the Council as payable to dairymen for town milk of any category. 30

(3) The coming into force of the resolution herein-before mentioned shall not be deemed to prohibit the supply by a licensed dairyman to the said factory of milk produced on a factory farm for the time being licensed by the Council as a dairy: 35

Provided always that in the case of dairy premises which hereafter become a factory farm the supply therefrom shall be in accordance with any terms or conditions imposed by the Council in granting its consent to such supply. 40

(4) The Council shall purchase and the company shall supply the percentage hereinafter provided of the town milk required during any supply-year. Such percentage shall be sixteen and one-half per centum
5 unless and until altered by the operation of any of the provisions hereinafter contained, and the expression "the said percentage" shall, where hereafter used, unless the context otherwise requires, be deemed to mean
10 the specified percentage until so altered, and thereafter the percentage for the time being in force. The following provisions shall apply in respect of the said percentage, that is to say:—

(a) If prior to or within thirty days after the
15 beginning of any supply-year the company ceases to receive at its said factory the milk produced on any factory farm from which it was receiving such milk at the commencement of this Act, or any such farm ceases to be
20 licensed dairy premises, then as from the beginning of such supply-year the said percentage shall be reduced by a portion thereof bearing the same proportion to the whole as the quantity of milk supplied by such farm to the company during the basic year and
25 treated by it as having been sold at town milk prices bears to the total quantity of milk so supplied by factory farms in such year, or during such part thereof as the said farm was actually supplying its milk to the company, and
30 treated as aforesaid:

Provided that, if before or within thirty days after the beginning of any supply-year the company with the express consent of the
35 Council regains the supply of any farm lost as aforesaid, the amount or figure by which the said percentage was reduced in consequence of such loss shall be added to the percentage which would otherwise have operated from the commencement of such supply-year:

(b) If prior to or within thirty days after the
40 beginning of any supply-year the company agrees to receive at its said factory throughout the whole or remainder of such year the milk

produced on any farm which hereafter, but not later than the seventh day of such year, becomes a factory farm, and the occupier thereof agrees to supply same as aforesaid, then, as from the beginning of such year, the said percentage shall be increased by a portion thereof bearing the same proportion to the whole as that portion of the milk produced on such farm during the basic year which would have been treated by the company as sold at town milk prices if such farm had been a factory farm supplying the company throughout such year and had been dealt with by the company on the same basis as other factory farms so supplying bears to the total quantity of milk received by the company from factory farms in that year and treated as sold as aforesaid: 5 10 15

Provided that if before or within thirty days after the beginning of any supply-year the company loses, or fails, or ceases to receive the supply from any farm which, by reason of having become the subject of such agreement as aforesaid, increased the said percentage, or such farm ceases to be licensed dairy premises, the amount or figure by which the said percentage was increased shall be deducted from the percentage which would otherwise have operated from the beginning of such supply-year: 20 25

(c) If through absence of sufficient data or information or for any other reason the Council is unable to determine what the increase or reduction of the percentage should be in any case aforesaid, the Council shall fix the amount of such increase or reduction on such basis as it shall deem equitable: 30 35

(d) Where any supply is or will be lost as aforesaid to the company which has reduced or will reduce its percentage below sixteen and one-half per centum, the Council shall not arbitrarily withhold its consent to the conversion of any licensed dairy premises into a factory farm to enable the company to recover or maintain such percentage: 40

- (e) If in any of the months of May, June, or July of a supply-year the average daily quantity of milk available to the Council from the company is less than twenty-two per centum of the average daily quantity of town milk required in that month (hereinafter referred to as the average daily demand), then the percentage of the town milk which the Council shall be bound to purchase from the company in the next supply-year shall not in any case exceed a figure bearing the same proportion to sixteen and one-half per centum as the lowest average daily quantity available from the company as aforesaid in any of the said months bears to twenty-two per centum of the average daily demand in that month. The foregoing provisions of this section shall be read subject to this provision.
- (5) Notwithstanding anything herein contained or implied, the company will supply to the Council all the milk it requires from time to time up to the total supplies which the company is able to procure from the factory farms.
- (6) The following provisions shall apply in relation to the purchase of milk by the Council from the company:—
- (a) The Company shall supply only milk which is produced on factory farms for the time being licensed by the Council and which complies in all respects with the regulations of the Council:
- (b) The Council may require delivery on any day of any quantity it desires to the extent of the total quantity which the company has in hand or is able to procure from factory farms, and if in any month the quantity available to the council from the company falls short of the said percentage of the town milk required in that month the company shall not be entitled to make good the shortage at any subsequent time:
- (c) Delivery shall take place at such time or times on any day as the Council shall think fit, and either at the said factory or in respect of the

milk produced on any factory farm at such farm if the Council so desires and of such desire notifies the company or any responsible member of its said factory staff not later than noon of the day preceding the day on which such delivery is desired: 5

- (d) At least once in every week of each supply-year the company shall test bacteriologically and chemically the milk produced on each factory farm and forthwith furnish full and accurate particulars thereof to the Council: 10

Provided that no such test need be made in any week in which the company has not handled any milk from such farm:

- (e) Within twenty days after the end of each month of the supply-year the Council shall calculate the total quantity of town milk sold by it in such month. For the purpose of fixing the basis of payment to the company it shall be deemed to be a dairyman and to have supplied the said percentage of such quantity, and, where different town milk prices are payable by the Council for different portions of such quantity, the company shall be deemed to have supplied the said percentage of each such portion, and, subject to the provisions hereinafter contained, shall be entitled to be paid therefor at the price which the Council has fixed as payable by it in respect of or applicable to such portion, provided always that in no case shall the company be paid a higher price than that applicable to the class, grade, or quality of the milk actually delivered by it in such month, or, if no milk was so delivered, then of the milk last delivered by it. Payment shall be made by the Council to the company within the said twenty days on the following basis:— 15 20 25 30 35

(i) If the total quantity actually delivered by the company to the Council in such month equals the quantity it is deemed to have supplied (hereinafter termed the basic quantity), the company shall be paid for such quantity at the appropriate town milk price or prices: 40 45

- 5 (ii) If the total quantity actually delivered as aforesaid falls short of the basic quantity, the company shall be paid at the appropriate town milk price or prices for the basic quantity less the cheese price of the shortage, provided always that nothing shall be paid in respect of any part of such shortage which was due to the company's inability or failure to deliver the quantity ordered by the Council:
- 10 (iii) If the total quantity actually delivered as aforesaid exceeds the basic quantity, the company shall be paid at the appropriate town milk price or prices for the basic quantity and at cheese prices for the excess:
- 15 Provided always that, if in any supply-year the company has been called upon to deliver and has delivered a greater gallonage than that for which it has been paid at town milk prices by the monthly payments aforesaid, the Council shall within thirty days after the end of such year pay to the company for each
- 20 gallon of the excess the difference between the average cheese price per gallon over the total gallonage which in respect of such year has been paid for by the Council to the company at cheese prices and the average town milk price per gallon over the total gallonage which
- 25 in respect of such year has been paid for by the Council to the company at town milk prices. For the purpose of this proviso town milk
- 30 prices shall be deemed to have been paid under subparagraph (ii) of this paragraph notwithstanding any deduction of the cheese price in respect of any shortage.
- 35 (7) For the purpose of any determination or calculation of quantity under this section one gallon of cream containing not less than forty parts per centum by weight of milkfat shall be deemed to be ten gallons of milk, and one gallon of cream containing a lower
- 40 percentage of milkfat shall be deemed to be such gallonage of milk as bears the same proportion to ten as such lower percentage bears to forty.

(8) By agreement in writing between the Council and the company the rights and obligations of the Council and the company respectively under this section may be waived or altered in such manner or respect and to such extent as such agreement provides. 5

(9) Failure by the company to comply with any lawful requirement of the Council shall release the Council from any further obligation to purchase milk from the company.

General powers of the Council.

8. (1) Without in any way limiting any power conferred by this or the principal Act, the Council shall have power, but subject as hereinafter provided, to do all or any of the following things:— 10

(a) To engage in the purchase, collection, treatment, storage, sale, and distribution, wholesale or retail, or other disposition of milk: 15

(b) To treat milk or subject the same or any constituent, derivative, or by-product thereof to any process whatsoever, or to procure any other person to do so: 20

(c) To convert milk into or manufacture or derive with or from it butter, cheese, casein, or any product whatsoever, or to procure any other person so to do, and to sell or otherwise deal in or turn to account such product or any product or constituent of milk: 25

Provided always that the Council shall not itself manufacture butter or cheese so long as any dairy company with a factory situated to the south of the Waitemata Harbour and within a distance of twelve miles in a straight line from the Chief Post-office at Auckland is able and willing to purchase or accept at such factory any milk whatsoever of which the Council desires to dispose at a fair and reasonable price, not being less than the most favourable price which such company is at the time paying or crediting or offering or intending to pay or credit to any of its suppliers for milk to be converted into butter or cheese: 30 35 40

(d) To do or cause to be done anything which it considers advisable or expedient to promote the consumption of milk or any product,

derivative, or constituent thereof, or to secure to consumers in the milk district an adequate supply of good-quality milk at reasonable prices:

- 5 (e) (i) To purchase, lease, hire, or otherwise acquire land, machinery, plant, vehicles, appliances, patents, goods, rights, and property of any description, including the goodwill of any business, and to purchase
10 shares or other interests in any company engaged in the manufacture of butter or other milk-products to which the Council desires to sell or supply milk:
- (ii) To erect buildings or other structures and
15 install machinery, plant, and appliances, and to maintain, alter, or otherwise deal with the same:
- (iii) To sell, lease, hire, mortgage, pledge, or
20 otherwise dispose of any property of the Council:
- (iv) To procure the performance or rendering of any work or service:
- (v) To pay or give consideration for any
25 property, work, or service in such manner as it thinks fit, to pay interest at such rate as it thinks fit on any moneys for which the Council has become liable, and to mortgage or otherwise charge any
30 property for the purpose of giving security for payment of any such moneys and interest:
- (vi) To lend money to any dairyman or milk-vendor with or without security on such terms as the Council shall think fit:
- 35 (f) To enter into any contract in relation to any of the matters aforesaid.

(2) Notwithstanding anything hereinbefore contained, the Council shall not operate any treating plant, or, save as hereinafter provided, sell milk in the milk
40 district except to milk-vendors or dairy factories without the consent of the Minister, who may give such consent subject to the fulfilment by the Council of such conditions (if any) as he shall think fit to impose, and the Council is hereby empowered to comply with any such conditions.

(3) Nothing herein contained shall prevent the Council from selling to any person milk for consumption or use outside the milk district.

Power of Council to pay compensation for injury due to exercise of its powers.

9. The Council may in its discretion pay such compensation as it thinks reasonable to any person at the time of such payment or previously thereto engaged in the business of producing, treating, or selling milk, or owning or having an interest in any property used in or in connection with any such business whose business or property in the opinion of the Council has been or will be lost, injured, reduced in value, or otherwise prejudicially affected by the exercise of any of the Council's powers under this or the principal Act, and the Council may before or after the exercise of any such power agree to pay such compensation.

Power to cancel or refuse license to debtor milk-vendor in certain circumstances.

10. In any case where prior to or after the coming into force of this Act a licensed milk-vendor (herein termed the debtor) has received any loan from another milk-vendor or from a dairy company (herein termed the creditor) for the purpose of or in relation to his business as such milk-vendor, or the debtor is otherwise indebted to the creditor in relation to his said business and the security for such loan or the creditor's position in regard thereto or in regard to such other indebtedness of the debtor is or may in the opinion of the Council be prejudiced by any zoning or consolidation of rounds effected or intended to be effected by the Council, it shall be lawful for the Council to cancel the license of the debtor or refuse him a license unless he gives such security or makes such arrangement for repayment to the creditor of the said loan or advance or for the payment to the creditor of such other indebtedness as the Council shall direct, or, having made any such arrangement as aforesaid, whether under such direction or not, refuses or fails or neglects to carry it out.

Amendment of section 54 of principal Act with respect to appeals against price.

11. (1) Where any appeal pursuant to section fifty-four of the principal Act is made against any price fixed by the Council, all steps in such appeal prior to the hearing thereof shall be taken in the Court and in the manner prescribed in the said section, but such appeal shall be heard and determined by a Court (herein referred to as the Price Appeal Court) consisting of

the Senior Magistrate for the time being presiding in Auckland and two persons to be appointed by the Minister either specially for the purpose of hearing and determining such appeal or generally for hearing and
5 determining all such appeals against price, and the following provisions shall apply:—

- (a) The Magistrate shall be the President of the Price Appeal Court:
- 10 (b) The determination of the majority of the Price Appeal Court shall be deemed to be the judgment of the whole Court:
- (c) The President shall appoint the time and place of hearing, and shall, not less than fourteen days before the time appointed, cause a notice
15 of such time and place to be served on the other members of the Court:
- (d) All papers filed in connection with the appeal shall be transmitted by the Clerk of the Magistrate's Court to the place of hearing
20 prior to the commencement of the hearing, and such Clerk shall do or cause to be done all things which he would have done or caused to be done on an appeal under section fifty-four as originally enacted, with such variation as
25 may be necessary owing to the changed constitution of the Court of hearing:
- (e) Save only as to the constitution of the Court as prescribed by this section, the appeal shall be heard and determined in accordance with the
30 provisions of said section fifty-four, and all the conditions of that section relating to appeals shall apply to such appeal, and the Price Appeal Court shall have power to make any order which a Magistrate would be
35 empowered to make under the said section fifty-four were this present section not in force, and any order made by the said Court shall have the same effect and consequences and be enforceable in the same manner as if it had
40 been made by a Magistrate under the said section fifty-four and this present section were not in force:

(f) Save only as by this present section otherwise expressly provided, a Magistrate shall have all the rights, powers, and obligations in respect of any such appeal as hitherto.

(2) The Minister may from time to time cancel the appointment of any person appointed by him as aforesaid and appoint another in his stead and may fill any vacancy. 5

(3) The Minister shall prescribe the fees to be paid to the persons appointed by him as aforesaid, and such fees shall be paid by the Council: 10

Provided, however, that the Price Appeal Court may include in any order for payment of costs to the Council by the appellant such amount as it shall think fit in respect of such fees. 15

(4) No order of the Price Appeal Court which varies any price fixed by the Council shall take effect until the expiration of twenty-eight days from the date on which such order is made, and the price fixed by the Council shall be operative in all respects until such order takes effect. 20

(5) Section fifty-four aforesaid is consequentially amended.

12. The Council shall be entitled to pay out of its funds for all services rendered and expenses incurred on its behalf in framing or promoting this Act. 25

Costs of
promoting
Act.