

DAIRY BOARD AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title and commencement. Except for *clause 8*, which is deemed to have come into force on 1 April 1980, the Act is to come into force on receiving the Governor-General's assent.

Clause 2 amends the definition of the term "Minister".

Clause 3 changes the title of the members of the Board to "director", and adds to the Board a director who is to be a member of and nominated by the New Zealand Milk Board.

Clause 4 substitutes for existing section 4 of the principal Act (which provides that directors are to be elected or appointed for terms of 4 years) a new section that provides different terms for directors of different ages. Directors under 68 will be elected or appointed for 4 years or until the end of the June following their 68th birthday, whichever is the sooner. Directors 68 or over will be elected or appointed for terms of 1 year only.

Clause 5 amends section 7 of the principal Act to provide that a director nominated by the New Zealand Milk Board is to vacate office if he ceases to be a member of that Board.

Clause 6 gives the Board power to prohibit, restrict, and control the export to certain sensitive markets of bulk quantities of certain kinds of dairy produce.

Clause 7 makes 2 amendments to section 26 of the principal Act. First, it makes clear that the values established for milkfat and solids-not-fat are to be expressed as values per kilogram of milkfat. Secondly, it provides that the sum of those values in any season is to be no more than 10 percent greater and no more than 5 percent less than the sum of the values set for those components of milk in the previous season. At present each such value is subject to those restrictions. Although it will now be possible for the value for one such component to be outside those limits if the other is correspondingly adjusted, the Dairy Products Prices Authority is required to consider some effects of the relationship between the values before setting such a value.

Clause 8 has the effect of ending the present price equalisation scheme for butter sold on the local market and extending to cover all dairy produce the scheme that at present applies to cheese. It is deemed to have come into force on 1 April 1980.

No. 85—1

Price 45c

Clause 9 abolishes the separate milkfat and solids-not-fat sections within the Dairy Industry Reserve Account.

Clause 10 empowers the Board to delegate powers conferred on it by the principal Act.

Clause 11 enables contracts of the Board to be entered into by persons acting "on behalf of and under the express or implied authority of the Board".

Clause 12 empowers the Board to fix the remuneration and travelling expenses of directors and of members of any committees of the Board.

Clause 13 adds the Chairman of the Rural Banking and Finance Corporation of New Zealand, and the Governor of the Reserve Bank of New Zealand to the present 5 members of the Dairy Industry Loans Council, and consequentially increases the quorum of the Council from 4 to 5.

Clause 14 corrects a minor drafting error.

Right Hon. Mr MacIntyre

DAIRY BOARD AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Dairy Board Act 1961

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

1. **Short Title and commencement**—(1) This Act may be cited as the Dairy Board Amendment Act 1980, and shall be read together with and deemed part of the Dairy Board Act 1961* (hereinafter referred to as the principal Act).
- 10 (2) Subject to section 8 (3) of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

*Reprinted 1976, Vol. 4, p. 3337
Amendment: 1977, No. 149

2. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Minister”, and substituting the following definition:

“‘Minister’ means the Minister of Agriculture:”.

3. New Zealand Dairy Board established—(1) Section 3 5
(2) of the principal Act is hereby amended—

(a) By omitting the word “members”, wherever it appears, and substituting, in each case, the word “directors”:

(b) By omitting the expression “13”, and substituting the expression “14”: 10

(c) By adding the following paragraph:

“(d) One director, who shall be a member of the New Zealand Milk Board nominated under any of paragraphs (a) to (c) of section 3 (2) of the Milk Act 1967, appointed by that Board.” 15

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “dairy produce”, the following definition:

“‘Director’ means a director of the Board:”.

(3) The principal Act is hereby consequentially amended 20
in the manner indicated in the Schedule to this Act.

4. Terms of office of directors—(1) The principal Act is hereby amended by repealing section 4 (as amended by section (2) of the Dairy Board Amendment Act 1975), and substituting the following section: 25

“4. (1) Except as otherwise provided by this Act, a director shall be appointed or elected—

“(a) In the case of a person who before his appointment or election has attained the age of 68 years, for a term expiring with the 30th day of June in the year following the year of his appointment or election: 30

“(b) In the case of a person who before his appointment or election has attained the age of 64 years but has not attained the age of 68 years, for a term expiring with the 30th day of June next following the 68th anniversary of his birth: 35

“(c) In any other case, for a term expiring with the 30th day of June in the fourth year following the year of his appointment or election. 40

“(2) Notwithstanding subsection (1) of this section, every director, unless he sooner vacates his office under section 7 of this Act, shall continue in office until his successor comes into office.”

5 (2) Section 2 of the Dairy Board Amendment Act 1965 is hereby consequentially repealed.

5. Extraordinary vacancies—Section 7 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

10 “(2A) Where a director appointed under section 3 (2) (d) of this Act ceases to be a member of the New Zealand Milk Board, his office as a director shall thereupon become vacant; and the vacancy shall be deemed to be an extraordinary vacancy.”

15 **6. Powers of Board as to acquisition and marketing of dairy produce**—Section 17 of the principal Act (as substituted by section 3 of the Dairy Board Amendment Act 1972) is hereby amended by inserting, after subsection (1), the following subsection:

20 “(1A) Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, the Board shall have full authority to make and carry out such arrangements as it thinks proper for prohibiting, restricting, and controlling, the export otherwise than by the Board to any
25 country specified in that behalf by the Governor-General by Order in Council of any compound or mixture (packed otherwise than for retail sale without further processing or packaging, and otherwise than in units of 2 kg or less) that—

30 “(a) Contains not less than 60 percent by weight of dairy produce; and

“ (b) In the opinion of the Board is used, or capable of being used, substantially in substitution for the dairy produce contained in it, or for any component of that dairy produce.”

35 **7. Establishing values for milkfat and solids-not-fat**—

(1) Section 26 of the principal Act (as substituted by section 7 of the Dairy Board Amendment Act 1975) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Not later than one month after the commencement of each season, or such later date as the Board determines, the Authority shall establish—

“(a) The value (per kilogram) of milkfat; and

“(b) The value (per kilogram of milkfat) of solids-not-fat— 5

to be used by the Board in determining the price to be paid by the Board for dairy produce acquired by it during that season.

(2) The said section 26 is hereby further amended by repealing subsection (3), and substituting the following subsections: 10

“(3) The sum of the values for milkfat and solids-not-fat established in respect of any season shall not be greater by more than 10 percent nor less by more than 5 percent than the sum of the maximum values for those components of milk established during the previous season unless— 15

“(a) The Board so recommends; and

“(b) The Minister approves; and

“(c) The Authority is satisfied that the maintenance of the economic viability of the dairy industry so requires. 20

“(3A) Before establishing in respect of any season a value for milkfat or solids-not-fat that is greater by more than 10 percent or less by more than 5 percent than the maximum value for that component of milk established during the previous season, the Authority shall consider the effect that the relativity between that value and the value established or, as the case may be, proposed to be established in respect of that season for the other component of milk will have on— 25 30

“(a) Persons who supply only one of those components for manufacture; and

“(b) Long term capital investment and herd breeding programmes within the dairy industry.

(3) Section 26 (4) of the principal Act is hereby consequentially amended by omitting the expression “subsection (3)”, and substituting the expression “subsections (3) and (3A)”. 35

(4) Sections 36 (2) (a) and 51 of the principal Act are hereby amended by omitting the words “subsection (3) of section 33”, and substituting, in each case, the expression “section 33 (8)”. 40

8. Adjustment where local price for dairy produce not equivalent to export price—(1) The principal Act is hereby amended by repealing section 27, and substituting the following section:

5 “(1) If at any time, in the opinion of the Board, the prices received by dairy companies for dairy produce of any kind or description (being a kind or description for the time being determined for the purpose by the Board with the approval of the Minister) sold for consumption in New Zealand are
10 less than amounts equivalent to the prices that would have been paid by the Board for dairy produce of that kind or description if it had been acquired by the Board for export, the Board may, with the approval of the Minister, pay from the Dairy Industry Account to each dairy company
15 concerned the amount of the difference.

“ (2) If at any time, in the opinion of the Board, the prices received by dairy companies for dairy produce of any kind or description as aforesaid sold for consumption in New Zealand exceed amounts equivalent to the prices that would
20 have been paid by the Board for dairy produce of that kind or description if it had been acquired by the Board for export, it may, if it thinks fit, recover the amount of the difference from each dairy company concerned, by either—

25 “(a) Directing that company to pay that amount to the Board; or

“(b) Deducting that amount from any money payable by the Board to that company.

“ (3) Where under subsection (2) (a) of this section the Board directs a dairy company to pay any amount to the
30 Board, that amount shall be deemed to be a debt due by that company to the Board and may be recovered accordingly; but no such direction shall prevent the Board’s deducting that amount under subsection (2) (b) of this section from any money payable by it to that company.

35 “(4) All money paid to or deducted by the Board under this section shall be paid into the Dairy Industry Account.

“ (5) For the purpose of determining the price that would have been paid by the Board if dairy produce of any kind or description had been acquired by the Board for export,
40 any amount paid under section 28 (1) of this Act shall be deemed to be part of that price.”

(2) The following provisions are hereby consequentially repealed:

(a) Section 4 of the Dairy Board Amendment Act 1965:

(b) Section 6 of the Dairy Board Amendment Act 1972.

(3) This section shall be deemed to have come into force on the 1st day of April 1980. 5

9. Dairy Industry Reserve Account—(1) Section 34 of the principal Act is hereby amended by repealing subsections (1) and (2) (as substituted by section 10 of the Dairy Board Amendment Act 1975). 10

(2) Section 10 of the Dairy Board Amendment Act 1975 is hereby consequentially repealed.

10. Delegation of powers of Board—(1) The principal Act is hereby amended by inserting, after section 48, the following section: 15

“48A. (1) The Board may, in respect of any particular matter or class of matter, or in respect of any particular area within or outside New Zealand, by writing under its seal delegate to any director or officer of the Board, or to the holder for the time being of any specified office under the Board, or to any other person whomsoever, any of its powers under this Act (including a power to execute deeds on behalf of the Board, but not including this power of delegation), so that the delegated powers may be exercised by him in respect of the matter or class of matter or area, specified in the instrument of delegation. 20 25

“(2) Subject to any general or special directions or conditions given or imposed by the Board, a person to whom any powers are so delegated may exercise them in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation. 30

“(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation. 35

“(4) Every delegation under this section shall be revocable at will; and no delegation shall prevent the exercise of any power by the Board.”

(2) Section 49 (1) of the principal Act is hereby consequentially amended by omitting the word “Any”, and substituting the words “Subject to section 48A of this Act, any”. 40

11. Contracts of Board—(1) Section 49 (2) of the principal Act (as substituted by section 12 of the Dairy Board Amendment Act 1975) is hereby amended by omitting the words “member or officer of the Board authorised specifically or generally to sign it”, and substituting the words “person acting on behalf of and under the express or implied authority of the Board”.

(2) Section 49 (3) of the principal Act (as substituted as aforesaid) is hereby amended by omitting the words “member or officer of the Board acting under the authority of the Board”, and substituting the words “person acting on behalf of and under the express or implied authority of the Board”.

12. Remuneration and travelling expenses—The principal Act is hereby amended by repealing section 56, and substituting the following section:

“56. (1) The Board shall pay to the directors, and to the members of any committee appointed under section 13 of this Act, such fees, salary, allowances, and travelling allowances and expenses, as the Board by resolution from time to time determines.

“(2) The Board shall pay to members of the Authority, and members of the Council, such fees, salary, allowances, and travelling allowances and expenses, as the Minister of Finance, after having regard to any recommendation in that behalf made to him by the Board, from time to time approves, either generally or in any particular case.”

13. Dairy Industry Loans Council—(1) Section 58 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) The Council shall comprise:

“(a) Five directors, appointed by the Minister on the nomination of the Board:

“(b) The Secretary to the Treasury:

“(c) The Director-General of Agriculture and Fisheries:

“(d) The Chairman of the Rural Banking and Finance Corporation of New Zealand:

“(e) The Governor of the Reserve Bank of New Zealand.”

(2) Section 61 of the principal Act is hereby consequentially amended by repealing subsection (1), and substituting the following subsection:

“(1) In the absence from any meeting of the Council of any member specified in any of paragraphs (b) to (e) of section 58 (2) of this Act, any officer of the Treasury, the Ministry of Agriculture and Fisheries, the Rural Banking and Finance Corporation of New Zealand, or the Reserve Bank of New Zealand, as the case may be, authorised by him in that behalf may attend that meeting in his stead, and while so attending shall be deemed to be a member of the Council; and the fact that any such officer attends and acts as a member at any such meeting shall be conclusive proof of his authority to do so.”

(3) Section 62 (3) of the principal Act is hereby consequentially amended by omitting the expression “4”, and substituting the expression “5”.

14. Chairman of Council—The principal Act is hereby amended by repealing section 60, and substituting the following section:

“60. The Council shall from time to time, as the office becomes vacant, elect a Chairman from among its members.”

SCHEDULE

Section 3 (3)

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Provision amended	How amended
Section 3 (3)	By omitting the words “member of the Board” and, where it secondly appears, the word “member”, and substituting, in both cases, the word “director”.
Section 5 (1)	By omitting the words “its members at the first meeting of the Board held after the commencement of this Act and thereafter in the month of June in each succeeding”, and substituting the words “the directors in the month of June in each”.
Section 5 (2)	By omitting the words “after the commencement of this Act the Board may, from among its members”, and substituting the words “the Board may from among the directors”.

SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision amended	How amended
Section 6 (1)	By omitting the words "member of the Board" and, where it secondly appears the word "member", and substituting, in both cases, the word "director".
Section 6 (2)	By omitting the words "member of the Board" and, where it secondly, thirdly, fourthly, and fifthly, occurs, the word "member", and substituting, in each case, the word "director".
Section 6 (3)	By omitting the words "member of the Board" and, where it secondly occurs, the word "member", and substituting, in both cases, the word "director".
Section 7 (1)	By omitting the words "member of the Board", and substituting the word "director".
Section 7 (2)	By omitting the words "member of the Board", and substituting the word "director".
Section 7 (3)	By omitting the word "member", and substituting the word "director".
Section 7 (4)	By omitting the word "member", and substituting the word "director".
Section 8 (1)	By omitting the words "member of the Board" and where it secondly and thirdly occurs, the word "member", and substituting, in each case, the word "director". By omitting the word "members", and substituting the word "directors".
Section 8 (1) (b)	By omitting the word "members", and substituting the word "directors".
Section 12	By omitting the word "members", and substituting the word "directors".
Section 13 (3)	By omitting the words "member of the Board", and substituting the word "director".
Section 54	By omitting the words "members of the Board", and substituting the word "directors". By inserting, after the word "as", the words "directors or".