

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
25th July, 1947.*

Hon. Mr. Cullen

DAIRY PRODUCTS MARKETING COMMISSION

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A BILL INTITULED

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| Title. | AN ACT to establish the New Zealand Dairy Products Marketing Commission, to make Provision for the Acquisition and Marketing by it of Butter and Cheese which is intended to be exported from New Zealand, to vest in the Commission Power to fix the Prices to be paid for Butter and Cheese so acquired by it, and to make Provision for the Regulation of the Marketing of Butter and Cheese in New Zealand. | 5 |
| | BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— | 10 |
| Short Title. | 1. This Act may be cited as the Dairy Products Marketing Commission Act, 1947. | |
| Interpretation. | 2. In this Act, unless the context otherwise requires,— | 15 |
| | “ Commission ” means the New Zealand Dairy Products Marketing Commission established under this Act: | |
| | “ Dairy Board ” means the New Zealand Dairy Board established under the Dairy-produce Act, 1923: | 20 |
| | “ Minister ” means the Minister of Marketing: | |
| | “ Season ” means a period of twelve months commencing on the first day of August in any year. | 25 |

See Reprint of Statutes, Vol. VIII, p. 659

PART I

NEW ZEALAND DAIRY PRODUCTS MARKETING COMMISSION

New Zealand Dairy Products Marketing Commission

5 **3.** (1) There is hereby established a Commission, to be called the New Zealand Dairy Products Marketing Commission.

New Zealand Dairy Products Marketing Commission established.

(2) The Commission, the members of which shall be appointed by the Governor-General on the recommendation of the Minister, shall consist of:—

10 (a) One member, who shall be appointed as Chairman;

(b) Three members, whose names shall be selected by the Minister from a panel of names submitted by the Dairy Board; and

15 (c) Three other members:

(3) The Commission shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

20 **4.** (1) The provisions of this section shall apply with respect to the appointment of the first members of the Commission and to every subsequent appointment or reappointment, whether to fill an extraordinary vacancy or not.

General provisions as to appointments and qualification therefor.

25 (2) Before the Minister makes any recommendation to the Governor-General for the appointment or reappointment of any member of the Commission, whether as the Chairman or otherwise, the Minister shall consult the Dairy Board and obtain the views of the Dairy Board thereon.

30 (3) The number of names on the panel of names to be submitted by the Dairy Board in the case of the appointment of any members whose names are to be selected by the Minister from such a panel of names, shall be a number twice as great as the number of members required to be so appointed.

(4) Any member of the Commission (whether the Chairman or not) shall vacate office if at any time after the expiration of three months from the time of his appointment he—

(a) Is a member of the House of Representatives or of the Legislative Council; or 5

(b) Is a member of the Dairy Board.

(5) If any member vacates office under the *last preceding* subsection, he shall be incapable of being reappointed as a member of the Commission so long as the disqualification under that subsection continues. 10

(6) The Chairman shall vacate office as the Chairman and as a member of the Commission if at any time after the expiration of three months from the time of his appointment he— 15

(a) Is in the Public Service of New Zealand or holds any other office, permanent or temporary, under or from or at the appointment or nomination of the Crown, or the Governor-General of New Zealand by virtue of his office, or at or by the nomination or appointment of any Minister of the Crown or officer of the Government of New Zealand by virtue of his office, to which any salary or other emolument is attached and paid, whether out of public moneys or not; or 20

(b) Is in the employment of, or is a director or a member of the controlling or governing body (by whatever name called) of, any corporation, whether incorporated by or under any Act or not, which is engaged in any business; or 30

(c) Is engaged or employed in any business other than farming, whether on his own account or in partnership or as agent or servant. 35

(7) If the Chairman vacates office under the *last preceding* subsection, he shall be incapable of being reappointed as the Chairman so long as the disqualification under that subsection continues.

Term of office
of members of
Commission.

5. (1) Except as otherwise provided in this Act, every member of the Commission shall be appointed for a term of five years, but may from time to time be reappointed. 40

(2) Notwithstanding anything to the contrary in this Act, every member of the Commission, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold his office until his successor
5 comes into office.

(3) With respect to the first members of the Commission appointed under paragraph (b) of subsection two of section three hereof the following provisions shall apply:—

10 (a) One of those members shall retire at the expiration of three years from the date of their appointment, another of those members shall retire at the end of four years from that date, and the other member shall retire at the
15 end of five years from that date:

(b) The member so to retire at the end of three years shall be determined by agreement of the three members, and the member so to retire at the end of four years shall be determined
20 by agreement of the two members then remaining; and, failing agreement on either occasion, the member then to retire shall be determined by lot.

(4) With respect to the first members of the Commission appointed under paragraph (c) of subsection
25 two of section three hereof the following provisions shall apply:—

(a) One of those members shall retire at the expiration of three years from the date of their appointment, another of those members shall retire at the end of four years from that date, and the other member shall retire at the
30 end of five years from that date:

(b) The member so to retire at the end of three years shall be determined by agreement between the three members, and the member so to retire at the end of four years shall be determined by agreement of the two members then remaining; and, failing agreement on
35 either occasion, the member then to retire shall be determined by lot.
40

Extraordinary
vacancies.

6. (1) Any member of the Commission may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister. 5

(2) If any member of the Commission dies, or resigns, or is removed from office, or vacates office under subsection *four* or subsection *six* of section *four* hereof, the vacancy shall be deemed to be an extraordinary vacancy. 10

(3) In the case of an extraordinary vacancy the Governor-General may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member. 15

(4) If the member who vacated office was the Chairman, the person appointed Chairman in his place shall be appointed for a term of five years. In every other case, the person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed. 20

(5) The powers of the Commission shall not be affected by any vacancy in the membership thereof.

Deputies of
members.

7. (1) In any case in which the Minister is satisfied that the Chairman or any other member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister, after consultation with the Dairy Board, may appoint a deputy to act for the Chairman or for that other member during his incapacity. In the case of the incapacity of the Chairman his deputy may or may not be one of the other members, and if the deputy of the Chairman is one of the other members some other person may be appointed to act as the deputy of that member. If a member appointed under paragraph (*b*) of subsection *two* of section *three* hereof is incapacitated as aforesaid, the Minister shall select any deputy appointed to act for that member from a panel of two names submitted by the Dairy Board. 30 35 40

(2) Nothing in subsection *six* of section *four* hereof shall apply to any person appointed to act as deputy of the Chairman of the Commission.

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Commission, and the deputy of the Chairman shall have all the powers of the Chairman.

5 (4) No appointment of a deputy and no acts done by him as such, and no act done by the Commission while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

10 **8.** (1) The first meeting of the Commission shall be held on a day to be appointed in that behalf by the Minister. Meetings of Commission.

(2) Subsequent meetings of the Commission shall be held at such times and places as the Commission
15 from time to time appoints.

(3) The Chairman of the Commission, or any three members thereof, may at any time call a special meeting of the Commission.

(4) At all meetings of the Commission the quorum
20 necessary for the transaction of business shall be four members, including at least one member appointed pursuant to paragraph (b) of subsection *two* of section *three* hereof and at least one member appointed pursuant to paragraph (c) of the said subsection *two*.

25 (5) The Chairman shall preside at all meetings of the Commission at which he is present.

(6) In the absence of the Chairman from any meeting of the Commission the members present shall
30 appoint one of their number to be the Chairman of that meeting.

(7) All questions arising at any meeting shall be decided by a majority of the valid votes recorded thereon.

(8) At any meeting of the Commission the Chair-
35 man shall have a deliberative vote. In the case of an equality of votes the Chairman of the Commission shall also have a casting vote.

(9) A resolution in writing signed, or assented to
40 by letter or telegram, by all the members of the Commission shall be as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

(10) Subject to the provisions of this Act and of any regulations thereunder, the Commission may regulate its procedure in such manner as it thinks fit.

Executive
Committee.

9. (1) The Commission may from time to time delegate any of its powers to a committee consisting of such member or members of the Commission as it thinks fit. 5

(2) Any committee appointed under this section shall in the exercise of the powers so delegated conform to any directions or requirements that may be given or imposed by the Commission. 10

Advisory
and Technical
Committees.

10. (1) The Commission may from time to time appoint such Advisory or Technical Committees as it thinks fit to advise the Commission on such matters concerning the dairy industry or marketing of any dairy-produce as are referred to them by the Commission. 15

(2) Each Advisory or Technical Committee may, in addition, furnish to the Commission reports on any matter relating to the dairy industry or the production or marketing of any dairy-produce in respect of which the members of the Committee have special knowledge or experience. 20

(3) Any person may be appointed to be a member of a Committee appointed under this section, notwithstanding that he is not a member of the Commission. 25

Functions and Powers

Functions of
Commission.

11. (1) The principal functions of the Commission shall be to acquire and market butter and cheese which is manufactured in New Zealand and which is intended to be exported, to determine as hereinafter provided the prices which it is to pay therefor, and to exercise and perform such functions, powers, and duties in relation to the marketing of butter and cheese in New Zealand as are conferred or imposed on it under this Act or otherwise howsoever. 30 35

(2) It shall also be a function of the Commission to report to the Minister from time to time concerning—

(a) Trends and prospects in overseas markets in respect of dairy-produce: 40

(b) Movements in costs or prices, or other factors likely to prejudice the economic stability of the dairy industry.

(3) The Commission shall have all such other functions as are by this Act or otherwise conferred upon it.

(4) The Commission shall have all the powers and authorities necessary, conducive, or incidental to the performance of its functions.

10 12. In the exercise of its functions and powers, the Commission shall comply with the general trade policy of the Government of New Zealand, and shall comply with any general or special directions given by the Minister to the Commission pursuant to the policy of the Government in relation thereto:

Commission to comply with trade policy and directions of Government.

15 Provided that nothing in this section shall apply with respect to the fixation of prices by the Commission pursuant to section *sixteen* or section *thirty-six* of this Act.

PART II

20 ACQUISITION AND MARKETING OF BUTTER AND CHEESE INTENDED FOR EXPORT

25 13. (1) This Part of this Act shall apply with respect to all butter and cheese that is manufactured from milk or cream delivered to a dairy factory in the season commencing on the *first* day of *August*, nineteen hundred and *forty-seven*, and in every subsequent season, and that is intended for export.

Butter and cheese to which this Part of Act applies.

(2) Nothing in Part II of the Marketing Act, 1936, shall apply with respect to any butter or cheese to which this Part of this Act applies.

1936, No. 5

30 14. Without limiting any of the powers conferred on the Commission by this Act or otherwise howsoever, the Commission shall have full authority to make and carry out such arrangements and give such directions as it thinks proper for any of the following purposes:—

General powers as to such butter and cheese.

(a) For the handling, pooling, transport, and storage of any butter or cheese to which this Part of this Act applies:

40 (b) For the shipment of any such butter or cheese that is intended for export, on such terms and in such quantities as it thinks fit:

- (c) For the insurance against loss of any such butter or cheese:
- (d) For the further treatment, processing, or packing of any such butter or cheese:
- (e) For furthering the sale of any such butter or cheese overseas, whether by advertising, experimental shipments, or otherwise howsoever: 5
- (f) Generally for all such matters as are necessary for the exercise of the functions and powers of the Commission. 10

All butter and cheese intended for export to become property of Commission.

15. (1) All butter and cheese to which this Part of this Act applies shall, as soon as it is placed, with the concurrence of the Commission, on board any ship for export from New Zealand, become the property of the Commission freed and discharged from all right, title, or interest possessed in respect thereof by any other person: 15

Provided that the Commission may, in respect of any such butter or cheese, by notice in the *Gazette* or by notice in writing given to the owner of the butter or cheese determine that the ownership thereof shall pass to the Commission at any specified time prior to shipment. 20

(2) Whenever any butter or cheese has become the property of the Commission in accordance with the *last preceding* subsection, the price thereof, as fixed in accordance with the *next succeeding* section, shall become payable, and, after deduction therefrom of the levy (if any) payable to the Dairy Board pursuant to section twenty-three of the Agriculture (Emergency Powers) Act, 1934, shall be paid forthwith by the Commission to the company or other person owning the factory in which the butter or cheese was manufactured or to any other person entitled thereto: 25 30

1934, No. 34

Provided that if the price of the butter or cheese has not been fixed at the time when it becomes payable as provided in this subsection, the Commission may make advances on account of the amount payable, pending the ascertainment thereof, and if the amounts advanced exceed the amount ascertained to be payable, the amount of the excess shall be repayable forthwith to the Commission or may be deducted by the Commission from any moneys payable to the company or other person who received the advances. 35 40

(3) Any butter or cheese which has become the property of the Commission as aforesaid may be withheld from export if it is required for consumption in New Zealand, or the Commission may, if it thinks fit, sell any such butter or cheese to any person who undertakes to export and market it in accordance with any agreement made with the Commission.

16. (1) The prices to be paid by the Commission in respect of butter and cheese which becomes the property of the Commission as aforesaid shall be fixed by the Commission in respect of each season either before or as soon as may be after the commencement of the season.

How prices to be fixed.

(2) Different prices may be fixed in respect of different kinds of butter or cheese, or in respect of different grades or qualities of the same kind of butter or cheese, or different prices may be fixed in respect of the same kind or grade or quality of butter or cheese by reason of the kind or quality of the packages in which the same is contained or by reason of any other special conditions or circumstances that in the opinion of the Commission warrant the fixing of different prices.

(3) If, after prices have been fixed in respect of any season, the Commission is of opinion that costs of production have so increased as to warrant an increase of the prices, the Commission may fix new prices by way of increase. Any increase of the prices to be paid by the Commission may be made to operate retrospectively from such date as the Commission fixes as the date from which the costs of production have increased as aforesaid.

(4) Notification of the prices fixed under this section and of any increase thereof shall be published in the *Gazette*.

(5) In fixing prices under this section regard shall be had to the prices previously fixed under this section or under section twenty of the Marketing Act, 1936, and to the following additional considerations, namely:—

1936, No. 5

(a) The necessity in the public interest of maintaining the stability and efficiency of the dairy industry:

- (b) The costs involved in the efficient production of butter and cheese:
- (c) The general standard of living of persons engaged in the dairy industry in comparison with the general standard of living throughout New Zealand: 5
- (d) The promotion of the general economic stability of New Zealand:
- (e) The estimated cost to the Commission of marketing the butter or cheese concerned, and also the cost of the general administration of this Act: 10
- (f) Any other matters deemed to be relevant.
- (6) Due regard having been paid to the matters referred to in the *last preceding* subsection, the prices shall be such that any efficient producer engaged in the dairy industry under usual conditions and in normal circumstances should be assured of a sufficient net return from his business to enable him to maintain himself and his family in reasonable comfort. 15
- (7) Prices fixed by the Commission under this section shall not be questioned on the ground that due consideration has not been given to any matter that is required to be taken into consideration in fixing the prices. 20
- (8) Notwithstanding anything to the contrary in the foregoing provisions of this Act, if the accounts of the Commission disclose a debit or if it appears to the Commission that the accounts of the Commission are likely to disclose a debit at any time within the next succeeding twelve months, the Commission, before it fixes any prices under this section, shall consult with the Minister thereon. 25
- 17.** For the purpose of conducting any inquiry necessary or desirable for the carrying-out of its functions under the *last preceding* section or under section *thirty-six* of this Act and for the purpose of obtaining any information that may be deemed necessary or of value to enable the Commission to fulfil those functions, the Commission shall have all the powers of a Commission appointed under the Commissions of Inquiry Act, 1908, and all the provisions of that Act shall apply accordingly. 35
- 40

Commission to
have powers as
Commission of
Inquiry.

See Reprint
of Statutes,
Vol. I, p. 1036

18. (1) If in the opinion of the Commission the prices at any time paid to any dairy company as fixed pursuant to the Marketing Act, 1936, in respect of butter or cheese intended for consumption in New Zealand are not equivalent to the prices that would have been paid by the Commission if the butter or cheese had been acquired by the Commission for export, the Commission shall advise the Minister and the dairy company of its opinion and as to the extent of the difference.
- (2) If the prices so paid to any dairy company are less than amounts equivalent to the prices that would have been paid by the Commission, the Commission shall pay to the dairy company the amount of the difference, and that amount shall be paid to the Commission out of the Public Account without further appropriation than this section.
- (3) If the prices so paid to any dairy company are more than amounts equivalent to the prices that would have been paid by the Commission, the dairy company shall pay the amount of that difference to the Commission, or the Commission may deduct the same from any moneys payable by the Commission to the dairy company, and the Commission shall pay that amount into the Public Account.

Adjustment where local price not equivalent to export price. 1936, No. 5

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PART III

DAIRY INDUSTRY ACCOUNT

19. (1) For the purposes of this Act there shall be established at the Reserve Bank of New Zealand an account to be known as the Dairy Industry Account.
- (2) The said account is hereby declared to be the same account as that established under the same name under section ten of the Marketing Act, 1936.
- (3) The Dairy Industry Account shall be operated on by cheque signed by or on behalf of the Chairman of the Commission and countersigned by the Audit Office. For the purposes of this subsection the Commission may from time to time authorize any member or officer of the Commission to sign cheques on behalf of the Chairman. Until the first meeting of the Commission the Dairy Industry Account may be operated on in the same manner and by the same persons as if this section had not been passed.

Dairy Industry Account.

(4) The Reserve Bank may grant to the Commission, and the Commission may receive from the Reserve Bank, accommodation by way of overdraft in aid of the Dairy Industry Account, and that account may be overdrawn accordingly: 5

Provided that the amount of the accommodation by way of overdraft shall not at any time, except with the prior consent in writing of the Minister of Finance, exceed in amount the total purchase-price which has been paid by the Commission for butter and cheese which it has acquired under this Act and which is for the time being unsold or in respect of which no part of the selling-price has been received by the Commission, together with the sum of the amounts paid for freights, storage, insurance, and other charges in connection with that butter and cheese: 10 15

Provided also that the Reserve Bank shall be entitled to accept a certificate in writing signed by the Chairman of the Commission, or some person duly authorized by him, as conclusive evidence of the amount of the aforesaid purchase-price, freights, storage, insurance, and other charges. 20

1933, No. 11

(5) The grant by the Reserve Bank of accommodation by way of overdraft as aforesaid shall not, for the purposes of section fourteen of the Reserve Bank of New Zealand Act, 1933, be deemed to be the making of unsecured loans or advances. 25

(6) The moneys in the Dairy Industry Account shall be deemed to be the moneys of the Commission.

(7) Any moneys of the Commission which are available for investment may be invested in the manner following:— 30

- (a) In New Zealand Government securities; or
- (b) On deposit in the Bank of New Zealand; or
- (c) In any other securities that may from time to time be authorized by the Minister of Finance. 35

Subsidiary accounts.

20. For the purpose of this Act the Commission may open at the Reserve Bank or at any branch or agency of the Bank of New Zealand (whether in New Zealand or elsewhere) such imprest or other subsidiary accounts as it may from time to time deem necessary or desirable. 40

21. There shall from time to time be payable into the Dairy Industry Account all moneys derived from the operations of the Commission or payable to the Commission and any other moneys that may be lawfully payable to the Account.
22. (1) There may from time to time be paid out of the Dairy Industry Account—
- (a) All moneys payable by the Commission, and all costs, charges, and expenses whatsoever incurred by the Commission, in the performance of its functions and the exercise of its powers and authorities:
- (b) All other moneys payable out of the Dairy Industry Account pursuant to this or any other Act.
- (2) Without limiting the generality of the provisions of the *last preceding* subsection, it is hereby declared that the following moneys may from time to time be paid out of the Dairy Industry Account:—
- (a) All moneys payable out of that Account pursuant to section forty-one of the Finance Act, 1937, section two of the Finance Act (No. 2), 1942, and section eighteen of the Veterinary Services Act, 1946:
- (b) Any moneys which the Commission, the Dairy Board, and the Minister agree shall be payable out of the Dairy Industry Account for any purpose which they deem to be of benefit to the dairy industry.
23. (1) The prices which the Commission fixes pursuant to section *sixteen* of this Act shall be duly paid as required by this Act.
- (2) The Minister of Finance is hereby empowered, for the purpose of giving effect to the provisions of the *last preceding* subsection,—
- (a) To consent in writing under subsection *four* of section *nineteen* of this Act to the amount of the overdraft with the Reserve Bank of New Zealand being increased beyond the limit therein prescribed:
- (b) To consent under section *twenty-nine* of this Act to the borrowing of such sums as may be necessary and the mortgaging or charging of any of the property of the Commission:

Moneys payable into Dairy Industry Account.

Payments out of Dairy Industry Account.

1937, No. 17
1942, No. 14
1946, No. 26

Guarantee of prices.

(c) To advance to the Commission out of the Public Account such sums as may be necessary, which sums the Minister of Finance is hereby authorized to advance without further appropriation than this section. 5

(3) In any case where for the purposes of this section the Minister of Finance consents to the borrowing by the Commission of any sums either by way of overdraft from the Reserve Bank or otherwise, the Minister of Finance may give such guarantees as he thinks fit in respect of the amounts borrowed by the Commission. 10

(4) If at any time the Minister of Finance is satisfied that the Commission has available moneys in excess of the amounts reasonably required for the carrying-out of the functions of the Commission, he may require the whole or any part of the excess to be repaid to the Public Account in reduction of any sums advanced to the Commission out of the Public Account, and the sum so required to be repaid shall be forthwith paid by the Commission into the Public Account. 15 20

PART IV

MISCELLANEOUS PROVISIONS

Officers of
Commission.

24. (1) The Commission may appoint such officers as it deems necessary for the efficient carrying-out of its functions under this Act. 25

(2) Any person in the service of the Crown may be appointed to be an officer of the Commission, but no person shall be entitled to hold office concurrently as an officer of the Commission and as a servant of the Crown except,— 30

See Reprint
of Statutes,
Vol. VII, p. 522

(a) In the case of a person subject to the Public Service Act, 1912, with the consent of the Public Service Commission:

(b) In any other case, with the consent of the Minister to whose control he is subject. 35

(3) The Commission may, out of the Dairy Industry Account, make payments to or subsidize the National Provident Fund or any fund or scheme established with the approval of the Governor-General in Council for the purpose of providing superannuation or retiring allowances for its officers and servants.

25. (1) The Commission may out of its funds, if in its opinion it is expedient so to do,—

Purchase of houses for use of officers, or advances for such purposes.

(a) Purchase houses outside New Zealand for the use of its officers; or

(b) Make advances, on such terms as it thinks fit, to its officers for the purpose of enabling those officers to purchase houses outside New Zealand for their own use.

(2) Where pursuant to this section the Commission purchases any house it may let the house to any officer of the Commission for such term and at such rent and otherwise upon such terms and conditions as it thinks fit.

26. The Commission is hereby authorized to collect on behalf of the Dairy Board any levy payable to the Dairy Board pursuant to section twenty-three of the Agriculture (Emergency Powers) Act, 1934, or any other enactment and to deduct from any amount so collected such amount by way of commission as may be authorized by regulations or as may be agreed upon between the Commission and the Dairy Board.

Commission may collect levy for Dairy Board.
1934, No. 34

27. (1) The Commission may from time to time, with the consent of the Minister, arrange that any of its duties or functions other than those under sections *sixteen* and *thirty-six* hereof may be performed on its behalf, whether in New Zealand or elsewhere, by the Marketing Department or by some other agent appointed for the purpose, and the Marketing Department is hereby authorized to act as agent for the Commission.

Performance of functions by Marketing Department or other agent on behalf of Commission.

(2) In respect of the services rendered under this section by the Marketing Department there shall, without further authority than this section, be paid out of the Dairy Industry Account to the Marketing Department such amounts by way of payment for those services as are agreed upon between the Commission and the Minister.

Contracts of
Commission.

28. (1) Any contract which, if made between private persons, must be by deed shall, if made by the Commission, be in writing under the common seal of the Commission.

(2) Any contract which, if made between private persons, must be signed by the parties to be charged therewith shall, if made by the Commission, be either under the common seal of the Commission or signed by two members of the Commission on behalf of or by direction of the Commission. 5 10

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Commission by any two members acting by direction of the Commission, but no oral contract shall be made for any sum exceeding *fifty* pounds. 15

(4) The Commission may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, to execute instruments on its behalf in any place in or beyond New Zealand. An instrument executed by such an attorney on behalf of the Commission shall bind the Commission, and if executed as a deed shall have the same effect as if it were under the common seal of the Commission. 20

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of the Commission shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Commission or to give effect to a resolution of the Commission. 25 30

Restriction of
borrowing-
powers.

29. The Commission shall not borrow any moneys or mortgage or charge any of its property without the prior consent in writing of the Minister of Finance:

Provided that nothing in this section shall apply with respect to any borrowing by way of overdraft from the Reserve Bank of New Zealand in accordance with section *nineteen* hereof. 35

Remuneration
and travelling-
expenses of
members of
Commission.

30. (1) The Commission shall pay to the members of the Commission such remuneration by way of salary, fees, or allowances as the Governor-General in Council from time to time approves, either generally or in any particular case: 40

Provided that the remuneration of the Chairman shall on his appointment or reappointment be fixed for the whole of the term of the appointment or reappointment.

5 (2) The Commission shall pay to the members of the Commission, and to the members of any committee appointed by the Commission, such travelling-expenses and such allowances as may from time to time be prescribed by regulations made under this Act, or as
10 may be approved by the Minister of Finance in any case to which regulations do not apply.

31. The Commission shall be exempt from land-tax and income-tax, and from the social security charge.

Exemption from taxation.

32. (1) The Commission shall, as soon as practicable after the thirty-first day of July in each year, furnish to the Minister a report of its proceedings and operations for the year ending on that date, together with a copy of its accounts for that year.

Annual report and accounts to be presented to Parliament.

(2) A copy of the report and of the accounts shall
20 be laid before Parliament within twenty-eight days after the same have been furnished to the Minister if Parliament is then sitting and otherwise within twenty-eight days after Parliament reassembles.

33. The accounts of the Commission shall be audited
25 by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities' accounts.

Audit of accounts.

See Reprint of Statutes, Vol. VII, p. 10

34. (1) The Governor-General may from time to
30 time, by Order in Council, in accordance with recommendations made by the Commission to the Minister, make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration
35 thereof.

Regulations.

(2) Without limiting the general power hereinafore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

40 (a) Regulating the kinds, grades, or qualities of butter or cheese which may be manufactured for consumption in New Zealand:

- (b) Regulating the distribution and sale of butter or cheese in New Zealand, and authorizing the Commission to acquire for resale in New Zealand, and to sell, any butter or cheese:
- (c) Licensing persons engaged in the business of distributing or selling (otherwise than retail) butter or cheese intended for consumption in New Zealand: 5
- (d) Obtaining any information or particulars that may be required for the purposes of this Act: 10
- (e) Prescribing offences against the regulations.

(3) On the coming into force of any regulations made for the purposes of paragraph (b) of the *last preceding* subsection, the provisions of section twenty-one of the Marketing Act, 1936, shall, to the extent to which they are contrary to the regulations, cease to apply with respect to butter and cheese to which the regulations apply. 15

(4) All regulations made under this section shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session and, if not, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session. 20

Offences.

35. (1) Every person commits an offence against this Act who— 25

- (a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations thereunder or with any direction given by the Commission under this Act: 30
- (b) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application or return to the Commission (whether in writing or otherwise) for the purposes of this Act or any regulations thereunder. 35

(2) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit or conspires with any other person to commit any offence against this Act, or against any regulations made for the purposes of this Act, shall be liable on summary conviction to a fine not exceeding *two hundred* 40

pounds, in the case of an individual, and in the case of a company or other corporation, to a fine not exceeding *one thousand pounds*.

(3) Any prosecution for an offence against this Act, or against any regulations as aforesaid, may be instituted at any time within one year after the commission of the offence.

36. (1) As soon as practicable after the passing of this Act the Commission shall, in accordance with the principles laid down in section *sixteen* of this Act for the fixing of the prices of butter or cheese acquired by the Commission, determine what prices should be paid by the Crown in respect of butter or cheese which has been or will be acquired by it under Part II of the Marketing Act, 1936, and which has been manufactured from milk or cream delivered to a dairy factory in the season which commenced on the first day of August, nineteen hundred and forty-six.

Guaranteed price for 1946-47 season.

1936, No. 5

(2) If the price so determined is more than has been, or is being, paid (whether by way of price, extra cost allowance, or otherwise howsoever) for the said dairy-produce, the amount of the difference shall, without further authority than this section, be paid out of the Dairy Industry Account to the companies or other persons owning the factories in which the produce was manufactured or to any other person entitled to receive the price of the produce.

(3) A corresponding amount per pound shall be paid, without further appropriation than this section, out of the Consolidated Fund in respect of butter and cheese sold for consumption in New Zealand and manufactured from milk or cream delivered to a dairy factory in the same season. Payments under this subsection shall be made to the companies or other persons owning the factories in which the butter or cheese was manufactured.

37. (1) The functions of the Export Division of the Marketing Department with respect to any dairy-produce to which Part II of the Marketing Act, 1936, applies but to which Part II of this Act does not apply (whether such dairy-produce has been exported before the passing of this Act and has not been finally disposed of or is exported after the passing of this Act) may at any time after the passing of this Act, with the consent of the Minister, be exercised by the Commission.

Transitional provisions.

1936, No. 5

(2) All contracts entered into by the Minister or by the Export Division of the Marketing Department before the passing of this Act and then subsisting shall become the contracts of the Commission in so far as they relate to the storage or insurance of any butter or cheese to which Part II of this Act applies. 5

(3) All receipts and payments in relation to dairy-produce acquired by the Crown under Part II of the Marketing Act, 1936, whether before or after the passing of this Act, or in relation to the agreement referred to in the *next succeeding* section which would but for the passing of this Act be paid into or paid out of the Dairy Industry Account shall, notwithstanding the passing of this Act, be paid into or paid out of the Dairy Industry Account as if this Act had not been passed. 10 15

Stabilization
account with
respect to
dairy-produce.
1946, No. 16

38. (1) Notwithstanding the passing of this Act, the agreement validated by section four of the Finance Act, 1946, shall continue in full force and effect as if the Dairy Industry Account continued to be a Marketing Account with the Reserve Bank within the meaning of that agreement, and, subject to the provisions of this section, the agreement shall bind the Commission. 20

(2) The Commission shall pay or transfer into the stabilization account kept in the Dairy Industry Account pursuant to the said agreement, and shall pay out of or charge against that stabilization account, such amounts as the Minister may, in accordance with agreements from time to time entered into, whether before or after the passing of this Act, with the Dairy Board, require to be paid, transferred, or charged for the purpose of carrying out the terms of the said agreement. 25 30

(3) Any credit remaining in the stabilization account kept in the Dairy Industry Account shall on the closing of that stabilization account become moneys of the Commission. 35

Miscellaneous
amendments.

39. The enactments mentioned in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULE

Schedule.

MISCELLANEOUS AMENDMENTS

| Title of Enactment. | Number of Section affected. | Nature and Extent of Amendment. |
|--|---|--|
| 1936, No. 5— The Marketing Act, 1936 | Sections 10 and 12 .. Section 22 .. | By repealing sections 10 and 12. By omitting from subsection (1) the words "in accordance with the foregoing provisions of this Part of this Act". By repealing subsection (3). By omitting from subsection (4) the word "other" where it occurs after the word "fixing". By omitting from subsection (5) the words "subsections three and four", and substituting the words "subsection four". |
| 1937, No. 21— The Marketing Amendment Act, 1937 | Section 12 .. Section 13, 14, and 15 .. Schedule .. | By omitting from subsection (1) the words "the Dairy Industry Account or". By repealing sections 13, 14, and 15. By repealing so much of the Schedule as relates to section 12 of the Marketing Act, 1936. |