

Sir J. P. Luke.

WELLINGTON CITY MILK-SUPPLY AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to amend the Wellington City Milk-supply Act, 1919, and to provide for the Constitution of a Board to fix Prices and Conditions of Milk-supply in relation to the Purchase of Milk by the Wellington City Council in Cases where such Prices and Conditions cannot be arrived at by Agreement.

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 Wellington City Milk-supply Amendment Act, 1924, and shall be read together with and form part of the Wellington City Milk-supply Act, 1919 (hereinafter referred to as the principal Act).

(1.) There is hereby established a Board to be called "The Wellington City Milk-supply Board" (hereinafter referred to as "the Board").

(2.) The Board shall consist of,—

(a.) ~~One person~~ Two persons appointed by the Minister of Agriculture on the recommendation of the Council:

(b.) ~~One person~~ Two persons appointed by the Minister of Agriculture on the recommendation of the Wellington Dairy-farmers Co-operative Association (Limited), (hereinafter referred to as "the company"):

(c.) One person, who shall be the Chairman, appointed by the Minister of Agriculture on the joint recommendation of the persons appointed under paragraphs (a) and (b) of this subsection: provided that if such persons shall for a period of seven days after their appointment fail to agree upon make

a recommendation the Minister of ~~Agriculture~~ shall appoint the Chairman, and such appointee shall in such case be a ~~Judge of the Supreme Court of New Zealand~~, the Judge of the Court of Arbitration, or, *in the event of his being unable to act*, a Stipendiary Magistrate.

New.

(2A.) When making the appointments provided for in paragraphs (a) and (b) of subsection *two* of this section the Minister shall, on the same recommendation, in each case appoint a deputy for each person so appointed; and in case of the absence of any such appointed member through illness or other unavoidable cause, his deputy may act in his place.

(3.) Every appointment shall be gazetted, and the gazetting of any appointment shall be conclusive evidence of such appointment; and every appointment shall, subject to the provisions of this Act, remain in force for ~~three~~ *one* years after the date of the appointment.

(4.) Any member of the Board may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister of Agriculture.

(5.) (a.) If any vacancy shall arise in the offices created under paragraph (a) or paragraph (b) of subsection *two* of this section, the Minister of Agriculture shall, on ascertaining that such vacancy has occurred, require the Council or the company, as the case may be, to ~~make recommendations of~~ *recommend* a new appointee for the vacancy until the Minister appoints some person so recommended.

(b.) If at any time the Council or the company when required to do so by the Minister fails to recommend an appointee within one month, the Minister may make the appointment without any such recommendation.

(c.) If the company shall cease to carry on business, or shall go into liquidation, or shall otherwise cease to exist, the Minister may ~~exercise~~ *make* the *relative* appointments under paragraph (e) (b) of subsection *two* of this section *or under subsection two A of this section*, without receiving any recommendation.

Meetings of Board.

3. (1.) Meetings of the Board shall be held at such time and place as the Chairman may, by writing under his hand addressed to the Clerk of the Board, from time to time appoint.

(2.) At least three days' notice of each meeting shall be given by the Clerk to each member of the Board and to the Council and to the company.

(3.) No business shall be transacted at any meeting of the Board unless ~~two~~ *three* members are present, *one of whom shall be the Chairman*.

New.

(3A.) If any member of the Board is absent without reasonable excuse from any meeting of the Board he shall be guilty of an offence.

Clerk.

4. The Clerk of the Magistrate's Court at Wellington shall be the Clerk of the Board.

Seal.

5. The Board shall have an official seal for the authentication of documents executed or issued by the Board, and all Courts shall take judicial notice of such seal.

6. The functions of the Board shall be to hold all such inquiries, to give all such decisions, awards, and determinations, and to do all such other acts and things as are hereinafter in this Act or in any other Act provided for in that behalf, or as may, in its opinion, be necessary for carrying out the purpose of this Act.

Functions of Board.

7. Minutes of all proceedings of the Board shall be kept by the Clerk.

Proceedings.

8. On the application of the Council or the company made in writing to the Chairman of the Board at any time after the ~~thirtieth~~ *thirty-first* day of ~~June~~ *May* in any year the Board shall, after giving the notices hereinbefore prescribed, and after having given public notice in ~~some~~ *the daily* newspapers, ~~generally not exceeding three~~, circulating in the City of Wellington of its first meeting to be held, determine judicially and award on any one or more of the following matters:—

Application to Board.

15 (a.) The price that shall be paid for milk purchased by the Council for its milk-supply during ~~any~~ *the forthcoming* milk year, being the period commencing on the sixteenth day of August in one year and ending on the fifteenth day of August in the next.

20 (b.) Any matter relating to the conditions and supply of milk, ~~and in particular but without affecting the generality of the matter above mentioned.~~

25 (c.) *In particular, but without affecting the generality of the provisions of the last preceding paragraph,* Any matter which has heretofore been the subject of agreement between the Council and any milk-vendor, or any matter that, in the opinion of the Board, is ancillary to or necessary for the completion of any award made by the Board, it being clearly understood that no matter on which an agreement has been arrived at between the Corporation and ~~any~~ *supplier the company* shall be subject to variation by any act of the Board ~~as between such supplier and the Corporation.~~

30 9. (1.) In fixing the prices for milk the Board may make variations in prices according to the place at which delivery is made by the seller to the Corporation.

Price fixation.

(2.) The Board may also fix the amount which is to be allowed to the Corporation for the conveyance of milk for any distance by motor or railway; and the Corporation shall be entitled to deduct from the price fixed by the Board any such allowance.

40 (3.) The conditions and prices fixed by the Board in respect of any application shall, so far as the same are applicable, govern and apply to all purchases made by the Corporation during the milk year to which such decision applies; and every supplier of milk during any such year shall ~~subject to any agreement made between such supplier and the~~ Corporation, be bound by such conditions and prices as if they had formed part of a contract made between such supplier and the Corporation for the sale and purchase of his milk during such year.

45 (4.) The Board in fixing prices shall be guided by prices of milk products obtaining in New Zealand ~~or~~ *and England or any other relevant* considerations whatsoever; provided always that in fixing increased prices for any period between the sixteenth day of April and the fifteenth

day of August the Board may take into consideration the extra labour and extra cost necessary for the production of milk during that period.

Disputes to be referred to Board.

10. If any dispute or difference shall arise between the Council and the company or any other person relating to any decision of the Board, or to any other matter agreed upon between the Council and the company, or any other person, whether relating to construction or to interpretation, any such dispute or difference shall be referred for decision to the Board. 5

Fees.

11. The Council and the company shall have the right, *and are hereby empowered*, to pay the persons appointed on their respective recommendations such fees in respect of each sitting not exceeding three pounds three shillings per day as the Council and the company shall think fit. 10

Qualification.

12. ~~No~~ Any person directly interested in the production or sale of milk in the Province of Wellington, and ~~no~~ any supplier or member or officer of the Council, shall be eligible to be appointed or to be ~~or to remain~~ a member of the Board. 15

Procedure.

13. (1.) Subject to the provisions of this Act, all applications to the Board shall be deemed to be submissions under the Arbitration Act, 1908, as if the Board were ~~three arbitrators~~ a single arbitrator appointed under that Act; and all provisions of the Arbitration Act, 1908, shall, subject to necessary modifications, apply accordingly to such applications. 20

(2.) Every question before the Board shall be determined by the majority of the members thereof, ~~but~~ and the determination of the majority shall be deemed to be a decision of the Board. 25

(3.) If the Board is unable by a majority to agree upon any award, the award shall be made by the Chairman, whose award shall in such cases be the decision of the Board.

(4.) Every award of the Board shall be executed in triplicate, the original of which shall be filed by the Clerk in the Magistrate's Court at Wellington, and the other copies of which shall be forwarded to the Council and to the company. Any interested person may at any time inspect or obtain a copy of any award on paying to the Clerk the prescribed fee. 30 35

Court fees.

14. The Minister of Agriculture may by regulation :—

(a.) Prescribe such fees as he thinks fit to be paid by applicants in respect of hearing or in respect of the issuing of awards or copies thereof, such fees to be paid into the Public Account. 40

(b.) Prescribe such forms and procedure as he thinks fit for the purpose of carrying the provisions of this Act into effect.

(c.) Prescribe the remuneration to be paid to the Clerk, and the fees (if any) to be paid to the person appointed as Chairman.

Awards final and conclusive.

15. Notwithstanding anything hereinbefore contained, no decision of the Board shall be quashed or set aside in any proceeding in any Court except on grounds of fraud affecting the making of the award. 45

New.

Milk to be tested and graded.

15A. (1.) All milk received from the suppliers by the Corporation in the city shall be tested and graded by or under the control of an officer of the Council appointed by and removable by the Minister of Health. 50

(2.) The decision of such officer as to the quality of any milk shall be in accordance with the standards fixed by any agreement for sale and purchase; and, subject thereto, his decision as to quality shall be final.

5 (3.) The salary of such officer shall be payable, half by the Corporation and half by the persons supplying milk to the Corporation.

16. (1.) Section two of the ~~Wellington City Milk-supply Act, 1919~~ Amendments. (hereinafter termed the "principal Act"); *principal Act* is hereby amended by *Struck out.*

10 repealing, immediately after the word "means" in line seven thereof, the words "(a) a milk-house, milk-shop, dairy, factory, or any other place where milk is collected, deposited, treated, separated, prepared, or manufactured, or is sold, or offered or exposed for sale, and includes (b)."

15 *New.*

omitting the definition of the term "dairy" and substituting the following:—

"Dairy" means a farm, stock-yard, milking-yard, paddock, shed, stable, stall, and any other place where cows are depastured, milked, or kept.

20 (2.) Section four of the principal Act is hereby amended by ~~repealing~~ omitting the words "the last preceding section" in line one thereof and by substituting therefor the words "this Act."

Struck out.

25 (3.) Section twelve of the principal Act is hereby amended as follows:—

(a.) By inserting, immediately after the word "city" in the third line thereof, the words "as it existed on the first day of January, nineteen hundred and twenty-four."

30 (b.) By inserting, after the word "exact" in line six thereof, the word "daily"; and by inserting, immediately after the word "record" in the same line, the words, "in proper books of account."

35 (c.) By repealing the word "obtained" in line seven thereof, and by substituting the word "produced."

(d.) By inserting, immediately after the word "time" and before the word "sold" in line eleven thereof, the words "produced and."

40 (e.) By repealing the word "a" at the end of line nineteen thereof, and by substituting therefor the words "an annual."

(f.) By inserting, immediately after the word "sell" in line two of paragraph (d) thereof, the words "any milk not produced at his own farm or sell."

45 (g.) By adding at the end of paragraph (d) the words "and for the purposes of this section any separated cream that may be sold on any day shall diminish the quantity of milk that may be sold on that day in the proportion of ten gallons of milk for every gallon of cream sold."

(h.) By adding at the end of subsection one the following new paragraph (e):—

“(e.) That every person applying for a license or a renewal thereof shall in such application state,—

“(i.) The area of his dairy or farm : 5

“(ii.) Whether his tenure is freehold or leasehold ; and, if his tenure is leasehold, the name of the owner of the fee-simple and the term of lease :

“(iii.) A description sufficient for identification purposes of the land by reference to survey district, block, and section and lot numbers, or otherwise.” 10

(i.) By adding, after subsection one, the following new subsection :—

“(1.) (a.) If any person licensed to sell milk under this section on any day brings into the city more than thirty gallons of milk he shall, in any proceedings under this Act, be presumed to have sold the whole of such milk, unless he shall by sufficient evidence satisfy the Court that on that day he sold less than thirty gallons of milk” : 15 20

(j.) By adding at the end of the section the following new subsections four, five, six, and seven :—

“(4.) That any application for a new license or for a renewal of any existing license shall be accompanied by a certificate of registration, or renewal of such certificate, as issued by the Department of Agriculture. 25

“(5.) Every person who shall be licensed under this section shall be required either to vend the milk himself, or, in the alternative, it shall be vended by a servant solely employed by him, and the licensee may not employ any agent other than such sole employee to vend his milk. 30

“(6.) No person licensed to sell milk under this section shall sell the same either personally or by agent from any place, shop, or dairy in the city situate elsewhere than at the dairy or farm at which the milk is produced : provided that nothing in this subsection shall be construed to limit the right of such person to sell milk from his own vehicle. 35

“(7.) Every person licensed under this section shall on request of an Inspector appointed under this Act produce to such Inspector for examination and for the purpose of making copies or extracts all books kept by him or on his behalf pursuant to the provisions of this section.” 40

New.

16A. Section twelve of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted as follows :— 45

(1.) In this section “Commission” means the Wellington City Milk-supply Control Commission constituted under this section.

(2.) Notwithstanding anything contained in the principal Act or this Act, milk produced at dairies situated wholly in the city or situated wholly within two miles of the city as it existed on the first day of January, nineteen hundred and twenty-four, may be sold within the city subject to the following conditions :— 50

Conditions under which licenses may be granted for the production and sale of milk.

5 (a.) That any person supplying milk under the provisions of this section shall keep an accurate daily record in proper books of account of the milk sold by him daily (whether within the city or not), and shall from time to time furnish to the Commission such returns of his daily sales as the Commission shall by regulation prescribe, and shall pay such annual fee based on the number of cows mentioned in the license as the Commission shall by regulation prescribe.

10 (b.) That any person so supplying milk, his agents or servants, shall, when requested so to do by an Inspector appointed by the Commission, deliver to such Inspector without payment a sample of any milk in his or their custody.

15 (c.) That no person shall sell milk in the city pursuant to the provisions of this section unless he is the holder of an annual license granted for that purpose by the Commission.

(d.) That no person shall under any license granted under this section sell any milk not produced at his own dairy.

20 (e.) That no person shall sell, or have in his possession in the city for sale, any milk that does not comply with all the standards as to quality prescribed by regulation as hereinafter provided.

(f.) No licensee shall milk at his dairy on any one day a greater number of cows than that fixed by his license.

25 (g.) No licensee shall be entitled to add to his licensed dairy any land which would not itself be eligible for a license as a dairy under this section.

30 (3.) (a.) Every person who shall be licensed under this section to sell milk shall be required either to vend himself or by a member of his family (namely, wife or husband and descendants of licensee), or by a servant employed solely by him; and such licensee may not employ any agent other than a member of his family or a sole employee to vend such milk: Provided, however, that where any person has contracted to purchase milk from two or more licensees, such licensees may combine for the purpose of arranging carriage and delivery of such milk by one only of such licensees on behalf of all; and provided further that
35 nothing herein contained shall be construed as prejudicially affecting any agency contract *bona fide* entered into prior to the eleventh day of June, nineteen hundred and twenty-four, and any such contract may be performed as if this Act had not been passed.

40 (b.) No person licensed to sell milk or cream under this section shall sell the same either personally or by agent from any place, shop, or dairy in the city situate elsewhere than at the dairy at which the milk is produced: Provided that nothing in this subsection shall be construed to limit the right of any such person to sell milk from his own vehicle in the ordinary course of vending authorized by this
45 section.

50 (c.) Every person licensed under this section shall, at the request of an Inspector appointed under this Act, afford such Inspector all such information, verbal or by the production of documents, as will enable such Inspector to ascertain the amount of milk sold daily by such person; and shall on request produce to such Inspector all his books of account.

(4.) (a.) There is hereby established a Commission to be called "the Wellington City Milk-supply Control Commission" (herein referred to as the Commission).

(b.) The Commission shall consist of three persons, one appointed by the Minister of Health, one appointed by the Minister of Agriculture, and one appointed by the Council.

(c.) Every appointment shall be gazetted, and the gazetting of any appointment shall be conclusive evidence of such appointment; and every appointment shall, subject to the provisions of this Act, remain in force for three years after the date of appointment. 10

(d.) Any member of the Commission may be at any time removed from office by the Governor-General (for disability, insolvency, neglect of duty, or misconduct), and may at any time resign his office by writing addressed to the Minister of Health, and his office shall, *ipso facto*, be vacated if, being an officer of the Government and being the appointee of the Minister of Health or the Minister of Agriculture, he ceases to hold such Government office. If any vacancy shall arise in the offices created under this section the person appointing to such office shall have the right to appoint a successor. 15

(e.) The Commission shall have an official seal for authentication of documents executed or issued by it, and all Courts shall take judicial notice of such seal. The Commission may appoint a clerk and other officers. Such clerk shall keep minutes of all proceedings of the Commission. 20

(f.) The Commission shall issue under its seal all licenses authorized to be issued by this section. 25

(g.) The Commission shall, in the case of each application for a license under this section, fix the maximum number of cows to be milked daily by the licensee, and such number of cows shall be inserted in the license. The number of cows so fixed shall be based on the carrying-capacity of the dairy under proper and husbandlike methods of farming, including fair and reasonable use of winter feed not produced on the dairy, and the making of provision for the grazing upon the dairy itself of a fair and reasonable number of cows not in milk belonging to the herd. 30 35

(h.) The Commission may make regulations for the following purposes:—

(a.) Prescribing on the basis and within the limits mentioned in subsection two (a) of this section the annual fee to be paid in respect of licenses granted under this section: 40

(b.) Prescribing form of application for license, and requiring applicants to state in such applications such particulars as the Commission may require, including the area of the applicant's dairy affected by the license, and a description of his dairy sufficient for identification purposes by reference to survey district, block, and section or lot numbers or otherwise: 45

(c.) Requiring any applicant for a license to produce any certificate issued by the Department of Agriculture in respect of dairies supplying milk for consumption in New Zealand: 50

(d.) Prescribing the standards required for milk to be sold in the city, and sanitary conditions in dairies, and conditions

under which milk may be produced and sold: Provided that unless and until regulations are made under this Act different from those made under the Sale of Food and Drugs Act, 1908, the last-mentioned regulations shall apply to all milk sold in the city:

5 (e.) Prescribing returns of milk sold by any licensee.

10 (5.) (a.) The Commission may appoint Inspectors under this Act, preference being given in appointments to persons who, other things being equal, shall have a practical knowledge of dairy-framing, and who are hereby authorized to examine all dairies situate within the city or within two miles of the city.

15 (b.) The fees payable in respect of licenses shall be paid to the Commission, who shall use the same for the payment of Inspectors, clerks, and other officers appointed by them, and generally for meeting the expenses incurred by the Commission in carrying out the provisions of this Act.

(6.) The Commission shall appoint its own Chairman, and shall make such regulations as to its procedure and as to making all regulations as it thinks fit.

20 (7.) All regulations made by the Commission shall be subject to the approval of the Governor-General in Council and be published in the *New Zealand Gazette*, and shall not have any force or effect until so approved and published, and when published shall operate as if they formed part of this Act.

25 (8.) The Commission shall have the right in case any licensee is guilty of wilful and persistent breaches of the provisions of this Act, or the regulations made thereunder, to cancel any license held by him, or to refuse any renewal of license.