THE
MILK SUPPLY ACTS, 1952 to 1961

Milk Supply Act of 1952, 1 Eliz. 2 No. 38
Amended by
Milk Supply Act Amendment Act of 1961, 10 Eliz. 2 No. 19

An Act to make Further Provision for the Regulation and Control of the Production, Collection, Treatment, Supply, Carriage, Sale, Delivery, and Distribution of Milk and Cream in relation to Prescribed Districts; to Repeal "The Milk Supply Act of 1938"; to Provide for the Continuance and Reconstitution of the Brisbane Milk Board; and for other purposes

[Assented to 2 December 1952]

PART I—PRELIMINARY

1. (1) Short title. This Act may be cited as "The Milk Supply Act of 1952."

(2) Commencement of Act. Except as herein otherwise provided, this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the Gazette.


2. Construction of Act. This Act, including every Proclamation, Order in Council, and regulation made hereunder, shall be read and construed so as not to exceed the legislative power of the State to the intent that, where any enactment hereof or provision of any such Proclamation, Order in Council, or regulation would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

3. Parts of Act. This Act is divided into Parts as follows:—

Part I—Preliminary (ss. 1-5);
Part II—Milk Districts and Milk Boards (ss. 6-16);
Part III—General Functions, Powers, and Duties of Milk Boards (s. 17);
Part IIIA—Sales Promotion;
Part IIIB—Fixing and Declaration of Price of Milk and Cream;
Part IV—Special Provisions Relating to the Regulation and Control of Milk and Cream Supplies and Suppliers (ss. 18-42);
Division I—Registration of Producers, Wholesale Vendors, and Retail Vendors (ss. 18-24);
Division II—Carriers' Licenses (ss. 25-31);
Division III—Securities by Wholesale Vendors (s. 32);
Division IV—Quotas (s. 33);
Division V—Prohibition of Monopolies and Restrictive Practices with respect to the Sale and Delivery of Milk and Cream (ss. 34–38);
Division VI—Vesting of Milk in Milk Boards (ss. 39–42);
PART V—Financial Provisions (ss. 43–46);
PART VI—Supply of Pasteurised Milk and Cream Within Prescribed Areas (ss. 47–50);
PART VII—Miscellaneous (ss. 51–66).

As amended by Act of 1961, 10 Eliz. 2 No. 19, s. 2.

4. Repeal of 2 Geo. 6 No. 27 and savings. “The Milk Supply Act of 1938” (hereinafter referred to as “the repealed Act”) is hereby repealed:

Provided that until a date is fixed under section eighteen of this Act in relation to the Brisbane Milk District and Brisbane Milk Board the provisions of sections twenty-two, twenty-three, and twenty-four of “The Milk Supply Act of 1938,” and every determination, regulation, certificate, notification, and registration thereunder shall continue in force in relation to that District and Board but on the first moment of the date fixed under the said section eighteen shall, without further or other authority, be and be deemed to be repealed or, as the case may be, revoked:

Provided further that, but without limiting the operation of “The Acts Shortening Acts”—

(i) Subject to reconstitution as provided for in this Act, the Brisbane Milk Board constituted for the Brisbane Milk District under the repealed Act shall continue in existence and shall under the same name be the Milk Board for the Brisbane Milk District under and for the purposes of this Act;

Neither the repeal of the repealed Act nor the reconstitution under and pursuant to this Act of that Board shall affect its continuity or its corporate identity;

If all things and steps necessary to reconstitute that Board under and in accordance with this Act shall not have been taken and done before the commencement of this Act, that Board shall continue to be constituted under and for the purposes of this Act by the chairman and other members thereof in office at the commencement of this Act, each of whom may, subject to the disqualifications from office imposed by this Act, continue in his respective office (notwithstanding that by so continuing he shall retain office for a period longer than three years) until the date when the chairman and other members first appointed under this Act to constitute that Board as reconstituted by this Act take office;

During any continuance in office as aforesaid of the chairman or members of the Brisbane Milk Board in office at the commencement of this Act, that Board as constituted by them may exercise, take, and do under, subject to, and in accordance with the provisions of this Act all such powers, functions, authorities, steps, and things as may be exercised, taken, and done by the Brisbane Milk Board in relation to the Brisbane Milk District by virtue of this Act;
(ii) Neither the repeal of the repealed Act nor the reconstitution under and pursuant to this Act of the Brisbane Milk Board shall affect the continuity of the office or employment of the Secretary, any other officer, or any employee of that Board, excepting that the Secretary, every other officer, and every employee holding office under or employed by that Board at the commencement of this Act shall thereafter continue in office or employment under and subject to this Act;

(iii) Neither the repeal of the repealed Act nor the reconstitution under and pursuant to this Act of the Brisbane Milk Board shall affect any rights or liabilities of that Board, and any legal proceedings that might have been commenced or continued by or against that Board as constituted under the repealed Act may be commenced or continued by or against it as reconstituted under this Act, or until so reconstituted, as constituted as provided in paragraph (i) of this proviso;

(iv) Property, including moneys, held by the Brisbane Milk Board as at the commencement of this Act shall be applied by that Board under and for the purposes of this Act;

(v) Unless otherwise expressly provided, every Proclamation, Order in Council, regulation, certificate, license, registration, appointment, approval, arrangement, assessment, consent, determination, requirement, notice, prohibition, or act of authority made, granted, given, issued, done, or otherwise originated under the repealed Act and subsisting at the commencement of this Act, shall, subject as hereinafter provided and so far as it is consistent with this Act, continue for the purposes of this Act in force (until it expires by effluxion of time, or is repealed, amended or otherwise modified, revoked, cancelled, suspended, or surrendered under this Act) as fully and effectually as if it had originated under the corresponding provisions of this Act, and shall, where necessary, be deemed to have so originated:

Provided that every such Proclamation, Order in Council, regulation, certificate, license, registration, appointment, approval, arrangement, assessment, consent, determination, requirement, notice, prohibition, or act of authority shall be read and construed subject to this Act;

(vi) All penalties and forfeitures imposed under any provision of the repealed Act and incurred at the repeal of that Act shall and may be enforced as if the repealed Act had not been repealed;

(vii) All actions and proceedings under the repealed Act commenced or pending when that Act is repealed may be carried on and prosecuted as if such repeal had not been made, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything contained in this Act; and

(viii) In any Act (including any Order in Council or regulation thereunder) any reference to or citation of the repealed Act shall be deemed, unless the context otherwise indicates or requires, to be a reference to or citation of this Act, and any
reference to the Brisbane Milk Board constituted under the repealed Act shall be read as a reference to the Brisbane Milk Board under this Act.

Acts referred to:
Milk Supply Act of 1938, repealed.

5. (1) Meaning of terms. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say—

“Board” or “Milk Board”—A Milk Board (including the Brisbane Milk Board) constituted under and for the purposes of this Act;

“Brisbane Milk Board”—The Brisbane Milk Board constituted under and for the purposes of this Act;

“Brisbane Milk District”—The area which, for the time being, constitutes the Brisbane Milk District under and for the purposes of this Act;

“Cream”—Cream other than cream used for the manufacture of butter or ice-cream;

“Dairy”—Any land, buildings, or other premises, used for or in connection with the production of milk;

“District” or “Milk District”—The area which, for the time being, constitutes a Milk District (including the Brisbane Milk District) under and for the purposes of this Act;

“Milk”—Includes whole milk and milk in any standardized or other prescribed form: The term does not include however milk used for the manufacture of butter, cheese, condensed milk, dried milk, concentrated milk, evaporated milk, or ice-cream;

“Minister”—The Secretary for Agriculture and Stock or other Minister of the Crown for the time being charged with the administration of this Act;

“Order in Council”—An Order in Council made under or continued in force by this Act;

“Person”—Includes a body corporate;

“Prescribed”—Prescribed by this Act;

“Producer”—The owner or occupier of a dairy;

“Regulations”—Regulations made under or continued in force by this Act;

“Retail vendor”—A person who sells in any Milk District by retail, whether from any premises or from door to door or otherwise, milk or cream or milk and cream;

“Sale”—Includes sale by wholesale or retail, barter, exchange, supply for profit, agree to sell, offer or expose for sale, keep or have in possession for sale, send forward or deliver for or on sale, or authorise, direct, cause, permit, suffer, or attempt any of such acts or things;
“Standardized”—Used in relation to milk, means the addition to milk of any separated, condensed, concentrated, dried, or desiccated milk or milk powder or water or any colouring or preservative matter or other substance whatever, or the extraction from whole milk of any of its original constituent parts;

“This Act”—This Act and all Proclamations, Orders in Council, regulations, notifications, and determinations continued in force or made or given hereunder;

“Use”—In relation to milk or cream or milk and cream, includes use or intended use by any person whomsoever for any purpose, and consume or consumption or intended consumption;

“Wholesale vendor”—A person who sells wholesale milk or cream or milk and cream: The term includes a person who sells partly wholesale and partly retail milk or cream or milk and cream, and also includes the occupier of any premises, other than a dairy, in which milk or cream or milk and cream is treated: The term does not include any producer who sells only milk or cream produced by him.

(2) Derivatives. Derivatives of any term to which a meaning is assigned by this section shall in this Act, unless the context otherwise indicates or requires, have a corresponding meaning.

(3) Reference to other Acts. Any reference in this Act to any other Act shall be taken to include a reference to any later Act amending or in substitution for that other Act.

PART II—MILK DISTRICTS AND MILK BOARDS

MILK DISTRICTS

6. (1) The Brisbane Milk District. Subject to subsection three of this section, the Area of the City of Brisbane as set forth in the Schedule to “The Milk Supply Act of 1938,” without further or other authority and notwithstanding the repeal of that Act, is declared to constitute a Milk District, with the name of “The Brisbane Milk District,” under and for the purposes of this Act.

(2) Constitution of other Milk Districts. (a) The Governor in Council may from time to time, by Order in Council, declare any area or areas without the Brisbane Milk District specified by him to constitute a Milk District with the name of “The [such name as the Governor in Council so specifies] Milk District” under and for the purposes of this Act.

(b) One and the same Milk District may be constituted by any two or more areas, notwithstanding that no parts of the respective boundaries of such areas, or any of them, are contiguous.

(3) Alteration of Districts, etc. (a) The Governor in Council may from time to time by Order in Council alter any Milk District (including the Brisbane Milk District) by—

(i) Including in that District any area specified by him without the area of such District;

(ii) Excluding from that District any area or part of any area specified by him.
(b) Any area may be so included in any Milk District notwithstanding that no part of its boundaries is contiguous with, or with any part of, the boundaries of that District as constituted immediately prior to the inclusion of the area.

(c) The Governor in Council may from time to time in like manner alter the name of any Milk District or amalgamate any Milk Districts.

(4) Judicial notice of boundaries of District. The boundaries of every Milk District shall be judicially noticed.

Act referred to:
Milk Supply Act of 1938, repealed.

As to power to exempt from the operation of these Acts, see s. 63.

MILK BOARDS

7. (1) Milk Board for each Milk District. For the purposes of this Act, there shall be a Milk Board for each and every Milk District, and every such Board shall have such functions, powers, authorities, and duties as are conferred or imposed upon it by this Act.

(2) The Milk Board for the Brisbane Milk District shall have the name of "The Brisbane Milk Board" and the Milk Board for any other Milk District shall have the name of "The [such name as the Governor in Council specifies by Order in Council in that case for this purpose] Milk Board."

General powers and duties of Milk Board—See s. 17.

As to power of Brisbane Milk Board concerning sales promotion and for participation in sales promotion schemes of other Boards, see ss. 17A-17K.

The Brisbane Board has price-fixing powers inside and outside its area; see ss. 17L, 17N.

As to registration of vendors by Boards, see ss. 19 et seq.

Milk Boards grant carriers' licenses, s. 27.

Milk quotas are fixed by Board chairmen, s. 33.

Boards may determine the number of brands which can be sold and fix prices for goodwill, ss. 36, 37.

In cases of insufficiency of supply, milk vests in the district Board, which then deals with it, s. 39.

Restrictions in remedy against Boards; Board powers to raise loans, etc.; duty to report—See ss. 42, 44, 45.

Board powers to levy and assess—See s. 46.

For power of Boards to deal with certificates or licenses, see s. 55.

Orders and directions of Board—See s. 62.

8. Incorporation of Boards. (1) Each and every Milk Board (including the Brisbane Milk Board) shall be a body corporate under the name prescribed for that Board, and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued and of acquiring, holding, and disposing of property, and of doing and suffering all such other acts, matters, and things as bodies corporate may by law do and suffer.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the seal of a Board affixed to any notice or other document whatsoever, and shall presume that it was duly affixed.
(3) In no case shall the corporate entity or capacity of a Board be in any way affected by any alteration in the number, representation, or qualifications of its members or by any reconstitution pursuant to this Act.

9. Reconstitution of the Brisbane Milk Board. (1) The Brisbane Milk Board shall be reconstituted in accordance with the provisions of this Act, and shall unless and until otherwise prescribed consist of a chairman and five other members each of whom shall, subject to the provisions of this Act relating to elective members, be appointed by the Governor in Council.

(2) (a) The chairman of the Brisbane Milk Board shall represent the Government of this State.

(b) Subject to this Act, of the members of the Brisbane Milk Board other than the chairman—

(i) One (who shall be a producer who supplies whole milk) shall represent the producers who for the time being are supplying or selling milk or cream for use within the Brisbane Milk District;

(ii) One shall represent the wholesale vendors who carry on business as such vendors within the Brisbane Milk District;

(iii) One (who shall be a producer who supplies whole milk) shall represent the wholesale vendors who carry on business as such vendors without the Brisbane Milk District and for the time being supply milk to wholesale vendors who carry on business as such within that district;

(iv) One shall represent the retail vendors; and

(v) One shall represent the consumers.

(c) Subject to this Act, elections respectively of the person for appointment as member of the Brisbane Milk Board to represent the producers, the person for appointment as member of the Board to represent the wholesale vendors, and the person for appointment as member of the Board to represent the retail vendors as referred to in subparagraphs (i), (iii) and (iv) of paragraph (b) of this subsection, shall be held under and pursuant to this Act, as soon as may be after the passing of this Act and during every third year thereafter upon a date (or according as the Governor in Council may determine in respect of any of those elections, different dates) to be fixed by the Governor in Council by Order in Council.

At an election of the person for appointment as member of the Board to represent the wholesale vendors referred to in subparagraph (iii) of this subsection, every such wholesale vendor shall be entitled to a number of votes, up to but not exceeding a prescribed maximum number, based on the quantity of milk supplied by him during a prescribed period to wholesale vendors who carry on business as such within the Brisbane Milk District.

(3) Subject to this Act, upon the completion of the first elections and thereafter triennially upon the completion of the triennial elections specified in subsection two of this section, the Governor in Council shall by Order in Council appoint a person to be the chairman, a person to be the member representing the wholesale vendors referred to in subparagraph (ii) of paragraph (b) of subsection two of this section and a person to be
the member representing the consumers and (subject to sections eleven and twelve of this Act) the three persons elected at those elections to be the three other members of the Board on and from a date to be specified in that Order in Council.

(3A) The appointment of a person to be the member of the Brisbane Milk Board representing the wholesale vendors referred to in subparagraph (ii) of paragraph (b) of subsection two of this section shall be made from a panel of names submitted by those wholesale vendors.

The panel shall contain the names of such number of persons as is equivalent to the number of such wholesale vendors for the time being registered with the Board but the panel shall contain not less than the names of two persons.

The panel of names to be submitted under this subsection shall be chosen by the wholesale vendors in such manner as may be prescribed and in so far as not prescribed as such vendors may determine.

The Minister shall cause notice in writing to be given to each registered wholesale vendor of the intention of the Governor in Council to make an appointment to which this subsection relates.

If at the expiration of the period of thirty days, or such extension of that period as the Minister thinks fit and is hereby authorised to grant, the Minister has not received the panel in compliance in every respect with the requirements of this subsection, the Governor in Council may appoint, as he deems fit, a person to be the member of the Board representing the wholesale vendors referred to in this subsection.

(4) Exercise of powers between passing and commencement of Act.

For the purpose of enabling the first members of the Brisbane Milk Board as reconstituted in accordance with the provisions of this Act to assume their respective offices on that Board immediately on or as soon as may be after the commencement of this Act, all such acts, matters, and things may be done and all such powers may be exercised after the passing of this Act and before the commencement hereof as may be done or exercised after the commencement of this Act, and for that purpose this Act shall be deemed to commence upon the passing hereof:

Provided that nothing contained in this subsection nor any act, matter, or thing done, or power exercised hereunder shall prejudice or affect in any way the continuity or membership of the Brisbane Milk Board constituted under and for the purposes of “The Milk Supply Act of 1938,” and continued as the Brisbane Milk Board constituted under and for the purposes of this Act, but immediately on the commencement of office of the first members of the Brisbane Milk Board as reconstituted pursuant to this Act the chairman and all other members of that Board as previously constituted, shall, unless re-appointed, cease to hold their respective offices thereon, without any right or remedy in consequence thereof.

(5) Elections. (a) Every election of the person or persons for appointment as a member or members of the Brisbane Milk Board to represent the producers, the wholesale vendors, and the retail vendors, as the case requires, shall be held in such manner as may be prescribed.

(b) The Governor in Council may from time to time by Order in Council or the regulations prescribe either generally or to meet particular cases all or any matters and things he considers necessary or desirable with
respect to the first and every other election of the respective representatives for appointment as members of the Brisbane Milk Board including, but without limiting the generality thereof, the qualifications of the persons entitled to vote for the respective representatives at such elections, the compilation of the respective rolls of those persons, the making of any and every such roll conclusive evidence of the right of the persons enrolled therein to vote at the election for which that roll has been compiled, offences in relation to the elections, and all or any other matters and things, whether of a like nature or not, preliminary to, and subsequent to, such elections and generally as to the conduct of such elections:

Provided that no person shall be entitled to vote at any elections of such representatives as a producer, retail vendor, or as the case may be, wholesale vendor and as a member of another of those classes and where he is a member of more than one of those classes he shall for the purposes of such elections nominate in the manner prescribed the class as a qualified member of which he desires enrolment:

Provided further that no person shall be entitled to vote as a member of a class more than once at the same election.

(6) The Brisbane Milk Board shall be deemed to be reconstituted in accordance with the provisions of this section on and from the date of the first appointment under this section of the members thereof.

As amended by Act of 1961, 10 Eliz. 2 No. 19, s. 3 (1).  
Act referred to:  
Milk Supply Act of 1938, repealed.  
For special powers of the Brisbane Milk Board, see ss. 17A-17N.  
On the question of unlawful payment to Board members, see s. 54.  
As to power of chairman to fix quotas, see s. 33.  
General provisions as to Boards—See ss. 11-15.

10. Constitution of other Milk Boards. (1) Upon the constitution of any Milk District other than the Brisbane Milk District under and for the purposes of this Act the Governor in Council shall by the Order in Council constituting that District or by a subsequent Order in Council or by the regulations—

(i) Constitute a Milk Board for that Milk District;  
(ii) Specify the name of that Milk Board;  
(iii) Fix the number of members of and representation upon that Milk Board; and  
(iv) Prescribe either generally or to meet particular cases all or any matters and things he considers necessary or desirable with respect to the constitution of that Milk Board and the first and every other election or appointment or election and appointment of all or any members thereof, including but without limiting the generality thereof, the times for holding the first and every subsequent periodical election for representation on the Board, the qualifications of the persons entitled to vote for the respective representatives at elections, the compilation of the respective rolls of those persons, and the making of any and every such roll conclusive evidence of the right of the persons enrolled therein to vote at the election for which that roll has been compiled, offences in relation to the elections, and all or any other matters and
things, whether of a like nature or not, preliminary to, and subsequent to, elections and generally as to the conduct of elections.

With respect to that Milk Board the provisoes, with respect to the Brisbane Milk Board, to paragraph (b) of subsection five of section nine of this Act shall apply and extend accordingly.

(2) Each and every Milk Board constituted pursuant to this section shall be deemed to be constituted on and from the date of the first appointment of the members thereof.

Unlawful payment to members—See s. 54.

General provisions as to Boards—See ss. 11-15.

11. Number of nominees not greater than number to be elected. Subject to this Act, if, with respect to any election of any persons for appointment as members of any Milk Board (including the Brisbane Milk Board), the number of persons duly nominated for election as representatives of the producers, or of the wholesale vendors, or of the retail vendors, as the case may be, does not exceed the number to be elected, the person or persons so nominated shall without a ballot be deemed to be duly elected as such representative or representatives accordingly.

12. Vacancies. (1) If for the purpose of making the first or any subsequent triennial appointment as members of a Milk Board (including the Brisbane Milk Board) of any persons required by this Act to be elected for such appointment, or if at any time for the purpose of filling any vacancy or vacancies in the office of any such members, the person or persons of the number required, for any reason whatsoever, have not been duly elected pursuant to this Act, the Governor in Council may nevertheless appoint such person or persons, as the case requires and as he deems fit, as a member or members of the Board to fill the office or, as the case may be, offices in question, but in so doing he shall appoint any and every duly elected person to the office for which he has been so elected.

Moreover, if at any time any duly elected person refuses to accept the appointment to the Board for which he was elected or, having been appointed as a member of the Board, refuses, neglects, or otherwise fails to act as such, the Governor in Council may thereupon appoint, in lieu of that person, another person as he deems fit, to be a member of the Board, and, where the appointment was made by reason of the failure to act as member, then the appointment of that member who has failed to act shall upon the making of such other appointment, without further or other authority, be deemed to be cancelled.

(2) (a) When a vacancy arises in the office of a member of a Milk Board the Board shall give immediate notice thereof to the Minister.

(b) Where the Minister has received notice of or finds that a vacancy has arisen in the office of a member of a Milk Board he shall thereupon, in the case of a non-elective member, take steps to fill that vacancy, and in the case of an elective member, cause an election to be held under and pursuant to this Act so that the producers, wholesale vendors, or retail vendors, subject to this Act, whose representative has caused such vacancy, may elect a representative for appointment to the vacant office:
Provided that, and notwithstanding anything to the contrary contained in this Act, where a vacancy arises (howsoever occurring) in the office of an elective member of a Milk Board within the twelve months immediately preceding the date when the term of office of that member ordinarily would have concluded, the Governor in Council may appoint any person he deems fit to fill that vacancy without an election being held under and pursuant to this Act to elect that person for such appointment or, at his discretion, require that such an election be held.

(c) The person appointed to fill a vacant office, whether as chairman or other member of a Milk Board, shall hold the office to which he is appointed for the remainder of the term of his predecessor, and shall be eligible, in the case of an elective member for re-election, and in any case for re-appointment thereto.

13. (1) Term of office of members of Milk Boards. (a) Subject to this Act, the chairman and every other member of any Milk Board shall hold his respective office for a period of three years and, subject to further re-election in the case of an elective member, be eligible for re-appointment.

(b) The office of chairman or any other member of any Milk Board shall—

(i) Commence on the day specified in the Order in Council appointing him thereto; and

(ii) Subject to this Act, become vacant at the conclusion of his term of appointment.

(c) Notwithstanding anything in this Act contained, the members of a Milk Board in office in the year in which the triennial appointments as members of the Milk Board are made shall continue and remain in office until the whole of the members of the Board are appointed in accordance with this Act in that year and notwithstanding that such firstmentioned members may thereby hold office as members of the Board for a longer period than three years.

(2) Vacation of office by member of Milk Board. (a) The office of chairman or other member of any Milk Board shall become vacant if such chairman or other member—

(i) Dies or becomes mentally sick; or

(ii) Becomes bankrupt or compounds or makes an arrangement with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or

(iii) Is absent without leave from three consecutive ordinary meetings of the Milk Board of which due notice has been given to him; or

(iv) Resigns his office by writing under his hand delivered to the Minister; or

(v) Is convicted of an indictable offence or of an offence against this Act; or

(vi) Is removed from office by the Governor in Council:

Provided that the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the secretary of the Board shall enter in the minute book the names of all members who so attend.
(b) If the chairman or any other member of a Milk Board before he is capable of acting as such or after his office has become vacated or his appointment thereto has been cancelled, he shall be guilty of an offence against this Act.

(3) Any person appointed as the chairman or any other member of a Milk Board, other than a person elected under and pursuant to this Act for such appointment, and who is an officer of any Department of the Government of this State may hold such appointment in conjunction with the office for the time being held by him in that Department.

14. (1) *Meetings.* A Milk Board shall meet at such times and places and regulate and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time decide.

(2) *Quorum.* The number of members required to form a quorum at any meeting of a Milk Board shall be as is prescribed for that Board.

(3) *Presiding at meetings.* The chairman shall preside at all meetings of a Milk Board at which he is present.

   If the chairman is absent from any duly convened meeting the deputy for the chairman shall preside at the meeting.

   The person presiding at any meeting of a Milk Board shall have a vote and when there is an equal division of votes upon any question and more than three members take part in such division shall have a second or casting vote.

(4) *Validity of acts done by a Milk Board.* The validity of acts done by a Milk Board or by any person acting as chairman or member of a Milk Board shall not be affected by any error or defect in the appointment or nomination or election for appointment or of any disqualification of any such person, or by reason of there being any vacancy in the number of members at the time.

(5) *Allowances, etc., of members.* Every member (other than the chairman) of a Milk Board and the deputy for the chairman shall be entitled to such allowances or fees or to such allowances and fees as may be recommended by that Board in his case and approved by the Minister:

   Provided that the allowance of the chairman of a Milk Board shall be at such rate as is from time to time fixed in his case by the Governor in Council.

(6) *Milk Board not to represent Crown.* A Milk Board shall be deemed not to represent the Crown for any purpose whatsoever.

15. *Deputy chairman.* (1) For each Milk Board a person who is not a member of any Milk Board shall be appointed to be the deputy for the chairman of the Board.

   (2) The Governor in Council shall, whenever necessary, appoint by notification published in the Gazette such person as he deems fit to be the deputy for the chairman of the Milk Board and in like manner may rescind any such appointment.
(3) The deputy for the chairman of a Milk Board shall act as and be deemed for all purposes to be chairman and a member of the Milk Board when and during such time as the chairman of the Board is prevented by absence, illness, or otherwise from performing the duties of the office of chairman or during such time as a vacancy exists in the office of chairman and while he so acts shall have and may exercise all of the powers, functions, and authorities, and shall perform all of the duties, and shall enjoy the immunities of the chairman.

The fact that the deputy for the chairman has exercised any power, function, or authority, or has performed any duty of the chairman shall, until the contrary is proved, be sufficient evidence that the chairman was then so prevented from performing the duties of his office or that a vacancy then existed in the office of chairman.

(4) Any person appointed to be the deputy for the chairman of a Milk Board and who is an officer of any Department of the Government of this State may hold such appointment in conjunction with the office for the time being held by him in that Department.

16. Amalgamation of Milk Districts, etc. The Governor in Council may at any time and from time to time by Order in Council reconstitute any existing Milk Board (and the number of members of and representation upon that reconstituted Board may differ from the number of members of and representation upon the Board as previously prescribed).

With respect to—

(i) The reconstitution as aforesaid of a Milk Board; or

(ii) The constitution, consequent on the amalgamation of two or more Milk Districts, of a Milk Board for the amalgamated District,

the Governor in Council may exercise, do, and take all such powers, things, and steps as are authorised by this Act to be exercised, done, or taken by him with respect to the constitution of a Milk Board for a District and, in addition, may by Order in Council or by the regulations make provision with respect to—

(A) The dissolution of the existing Milk Board or, as the case may be, the Milk Boards for the original Milk Districts;

(B) The vesting of property, real and personal, of the old Milk Board or, as the case may be, the original Milk Boards respectively in the new Milk Board;

(C) The payment to the new Milk Board of moneys payable to the old Milk Board or, as the case may be, the original Milk Boards respectively;

(D) The making of liabilities and engagements of the old Milk Board or, as the case may be, original Milk Boards respectively the liabilities and engagements of the new Milk Board;

(E) The prosecution by or against the new Milk Board of proceedings pending by or against the old Milk Board or, as the case may be, original Milk Boards respectively; and
(F) All or any other matters and things, whether of a like nature or not, he considers necessary or desirable with respect to the reconstitution of the Milk Board or, as the case may be, amalgamation of the Milk Districts in question and the dissolution of the old Milk Board or, as the case may be, original Milk Boards and the constitution of the new Milk Board.

PART III—GENERAL FUNCTIONS, POWERS, AND DUTIES OF MILK BOARDS

17. General powers and duties of a Milk Board. (1) Subject to this Act, it shall be the duty of the Milk Board for a Milk District to—

(i) Take all such steps as may be necessary to ensure that an adequate supply of milk and cream of a standard of quality not less than the standard for the time being prescribed under "The Health Acts, 1937 to 1949," and, if classes and grades are fixed by that Board, of the classes and grades so fixed, shall be available for use in quantities sufficient to meet all reasonable demands therefor in all parts of that Milk District;

(ii) Take such steps as it considers necessary to promote and encourage the use of milk and cream, including, but without limiting the generality thereof, the publication of such reports, information, and advice concerning the production, collection, treatment, carriage, delivery, keeping, storing, preservation, and use of milk and cream as to it may seem advisable;

(iii) Generally, regulate and control—

(A) The production, collection, treatment, carriage, sale, delivery, and supply of milk and cream for use in that Milk District, regardless of the boundaries of such Milk District; and

(B) Exclusively of any other Milk Board, the production, collection, treatment, carriage, sale, delivery, supply, and distribution of milk and cream within that Milk District;

(iv) Generally, exercise and discharge such other functions, powers, authorities, and duties as may be conferred or imposed upon it by this or any other Act.

(2) Subject to this Act, the Milk Board for a Milk District may from time to time—

(i) Devise and promote improved methods of collecting, treating, carrying, delivering, and distributing milk and cream (including the distributing of milk and cream in sealed containers);

(ii) Define, regulate, and control the method, extent, and conditions of supply, collection, carriage, and treatment of milk and cream for use in that Milk District;

(iii) Devise and promote means to prevent and eliminate unhygienic, wasteful, or unnecessary agencies, methods, practices, costs, or charges in connection with the production, collection, treatment, carriage, delivery, distribution, and sale of milk and cream;
(iv) Establish and maintain and assist in the establishment and maintenance of laboratories for the chemical, physical, bacteriological, or pathological analysis or examination of milk or cream or do any of these things;

(v) Fix classes and grades of milk and of cream which may be supplied or sold for use in that Milk District, including the fixing of different grades for different classes of milk and of cream, and the fixing of different classes or grades with respect to the supply or sale by different persons or classes of persons or according to the treatment to which the milk or cream is to be subjected or according to the purpose for which it is to be used or according to any other circumstances whatsoever which in the opinion of the Milk Board render the fixing of different classes or grades advisable;

(vi) Call for and obtain such information or returns (including periodical information or returns) from producers, wholesale vendors, and retail vendors as may be prescribed, or in so far as not prescribed, as in the opinion of the Milk Board are desirable;

(vii) Take or purchase or cause to be taken or purchased samples of milk or cream in the prescribed manner, and enter and inspect or cause to be entered and inspected any premises, vehicles, plant, or equipment used or suspected to be used in connection with the production, collection, treatment, carriage, sale, delivery, supply, or distribution of milk or cream;

(viii) Appoint producers, wholesale vendors, retail vendors, and other persons to act as agents of the Board in the exercise or performance of any power, authority, or function conferred upon the Board by this Act, and require any person so appointed to keep such books and records as may be prescribed and in such form and manner as may be prescribed;

(ix) Purchase or otherwise acquire such stock, plant, equipment, vessels, containers, and vehicles as may be necessary for enabling the Board to perform and carry out any of its functions under this Act; and at any time hire or sell or otherwise dispose of any stock, plant, equipment, vessels, containers, or vehicles so purchased or acquired;

(x) Establish, or arrange for the establishment of a central depot, or depots, for the collection, treatment, and testing of all milk and cream intended for use or distribution in its District;

(xi) With the consent of the Minister, purchase or take on lease such lands and premises as the Board considers necessary for the purposes of this Act, and at any time with the like consent mortgage, sell, or dispose of any such property;

(xii) With the consent of the Minister, erect such buildings and install such plant and equipment as the Board thinks necessary or desirable on any land owned or occupied by the Board;
(xiii) Report to or confer with the Minister upon all or any matters affecting or having relation to the objects for which the Milk Board is constituted or to the Board’s carrying out, and giving effect to, the provisions of this Act and make any recommendations thereon as to it may seem advisable;

(xiv) Generally do all or any such acts and things as may be prescribed and all or any such acts and things as may be necessary for the discharge of its duties with respect to the regulation and control of the production, collection, treatment, carriage, sale, delivery, supply and distribution of milk and cream, or for the exercise and discharge of such other functions, powers, authorities, and duties as may be conferred or imposed upon it by this or any other Act, or for the carrying out, and giving effect to, the provisions of this Act.

(3) **Power to operate as vendor of milk and cream.** A Milk Board may, as a function of that Board, but with the prior approval of the Minister, establish, maintain, manage, conduct, and operate, in respect of the Milk District for which it is constituted, the business of a wholesale vendor, or of a retail vendor, or of both a wholesale vendor and a retail vendor, including the carriage of milk or cream or milk and cream.

For purposes of or incidental to the establishment, maintenance, management, conduct, and operation of the business of a wholesale vendor, or of a retail vendor, or of both a wholesale vendor and a retail vendor, a Milk Board may—

(i) Acquire by purchase at any time and from time to time any milk or cream;

(ii) Sell or dispose of any milk or cream;

(iii) Manufacture, distribute, and sell milk products, ice, and other foodstuffs;

(iv) Separate into cream any milk and sell or dispose of such cream;

(v) Sell or dispose of any by-products resulting from the separation into cream of milk or from the manufacture of milk products;

(vi) Enter into contracts or arrangements with respect to the acquisition by purchase and the sale or disposal by the Board of milk, or cream, or ice, or other foodstuffs, or by-products;

(vii) Manage and control all matters connected with the carriage, handling, storage, collection, treatment, and distribution of milk or cream acquired by purchase by the Board or sold or otherwise disposed of by the Board; and

(viii) Exercise, take, and do all such powers, steps, and things as it is authorised by this Act to exercise, take, or do including, but without limit to the generality of the foregoing provisions of this paragraph (viii), the exercise, taking and doing of the powers, steps, and things prescribed by paragraphs (viii), (ix), (x), (xi), and (xii) of subsection two of this section.

(4) A Milk Board may make such determinations, orders, and requests, give such notices and directions, enter into such contracts, and do and take all such other acts, things, and steps as appear to it to be necessary or desirable for giving effect to this section or for the execution of the powers conferred on the Board by this Act.
(5) **Secretary, other officers, and employees.** (a) A Milk Board may appoint a secretary and such other officers and employ such employees and appoint such agents as it may consider necessary for effectively exercising and discharging its functions, powers, authorities, and duties under this or any other Act.

(b) The services of any officers or employees or agents appointed or employed or deemed to be appointed or employed by a Milk Board under this or any other Act may be terminated by that Milk Board.

Act referred to:
Definitions are contained in s. 5.

**Part IIIA—Sales Promotion**

17A. **Power of Board in relation to the promotion of the sale of milk.** The Brisbane Milk Board may either on its own behalf or in collaboration with any other Board, authority, association or person take or arrange for the taking of, any action which, in the opinion of the Board, is likely to promote the sale in Queensland of milk for liquid consumption and in particular is likely to expand existing markets or to secure new markets in Queensland for milk for liquid consumption.

Heading and section inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 4.

17B. **Milk Sales Promotion Fund.** (1) A fund is hereby established to be known as “The Milk Sales Promotion Fund.”

(2) The Milk Sales Promotion Fund shall be administered by the Brisbane Milk Board.

(3) There shall be paid into the Milk Sales Promotion Fund—

(a) Amounts equal to the amounts of assessment received by the Board by virtue of section 17J of this Act;

(b) Moneys paid by any other Board, authority, association or person to the Board for the purposes of the fund;

(c) Moneys received by the Board from the sale of any goods bought or produced, or in respect of any work paid for, out of moneys paid out of the fund; and

(d) Interest from the investment of moneys standing to the credit of the fund.

(4) Where an account referred to in section 17D of this Act is opened, payment into that account of moneys referred to in subsection three of this section shall be deemed to be payments into the Milk Sales Promotion Fund.

(5) The provisions of section forty-five of this Act shall, with all necessary adaptations, apply to the operations of the Board under this Part IIIA and to the administration of the Milk Sales Promotion Fund.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 4.

17C. **Application of the Milk Sales Promotion Fund.** (1) Subject to subsection two of this section, moneys standing to the credit of the Milk Sales Promotion Fund may be expended by the Brisbane Milk Board for the following purposes—

(a) The exercise of the powers, or the performance of the functions, of the Board under this Part IIIA;
The payment into the general funds of the Board of such amount as may be determined by the Minister upon the recommendation of the Board to be attributable to the exercise of the powers, or the performance of the functions, of the Board under this Part IIIA;

(c) In contributing towards expenditure which the Board is satisfied has been or will be incurred by the Australian Dairy Produce Board for the purpose of promoting the consumption of milk;

d) The payment of fees and allowances payable to persons appointed by the Board under section 17E of this Act;

e) Any purpose incidental to a purpose referred to in a preceding paragraph of this subsection.

(2) Where pursuant to section 17I of this Act any Board (other than the Brisbane Milk Board), authority, association or person, including any wholesale vendor or any person authorised to establish and carry on a pasteurisation plant pursuant to Part VI of this Act enters into an agreement with the Brisbane Milk Board to collaborate in the exercise of the powers, or the performance of the functions, conferred upon the Brisbane Milk Board by this Part IIIA such amounts as may be determined by the Brisbane Milk Board but not exceeding fifty per centum of the amount of any assessment received by that Board by virtue of section 17J of this Act in respect of milk supplied for use within the district of that other Board or an area or areas in respect whereof a person is authorised to carry on and establish a pasteurisation plant or so supplied to an association shall be paid to the other Board, association or person, as the case may be, to be expended by the other Board, association or person for the purpose of promotion of the sale of milk for liquid consumption within the district or area of the Board, association or person in question.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 4.

17D. Investment, etc., of moneys in Milk Sales Promotion Fund. (1) Moneys in the Milk Sales Promotion Fund not immediately required for the purposes specified in section 17c of this Act—

(a) May be invested in securities of or guaranteed by the government of the Commonwealth or of a State; or

(b) May be lodged in an account or accounts at call or on fixed deposits, or partly in an account or accounts at call and partly on fixed deposits at the Commonwealth Bank of Australia or at such other bank or banks as the Minister shall approve.

(2) Cheques drawn on an account referred to in subsection one of this section shall be signed in the same manner as cheques drawn upon the general account of the Brisbane Milk Board are required to be signed.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 5.

17E. Appointment of advisers. (1) The Brisbane Milk Board may appoint persons to advise it in relation to any purpose in respect of which moneys may be expended from the Milk Sales Promotion Fund.

(2) A person appointed under subsection one of this section shall be paid such fees and allowances (if any) as the Board determines.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 5.
17F. Milk Sales Promotion Advisory Committee. (1) For the purposes of this Part IIIA there shall be a Milk Sales Promotion Advisory Committee.

(2) The Committee shall be deemed to be established on and from the date of the first appointment of the members thereof.

(3) The committee shall consist of the chairman of the Brisbane Milk Board who shall be its chairman, and not less than four and not more than nine other members.

For the purposes of this section and section 17G of this Act, the term “chairman of the Brisbane Milk Board” shall include the deputy for the chairman of that Board when and during such such time as pursuant to this Act he acts as chairman of the Board.

(4) The other members of the committee shall, upon the nomination of the Minister, after consultation with such organisations and persons engaged in or connected with the milk supply industry as the Minister thinks appropriate be appointed from time to time by the Governor in Council by notification published in the Gazette.

(5) The other members of the committee shall hold office during the pleasure of the Governor in Council.

(6) The appointment of a member of the committee is not invalidated and shall not be called in question by reason of a defect or irregularity in connection with his nomination.

(7) The exercise of a power or the performance of a function of the committee is not invalidated by reason only of there being a vacancy in the membership of the committee.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 5.

17G. Proceedings of committee meetings. (1) The committee shall meet at such times and places and conduct its business in such manner as may be prescribed or in so far as not prescribed as it may from time to time determine.

(2) Quorum and voting. At a meeting of the committee—

(a) A majority of the number of members of the committee for the time being shall form a quorum;

(b) The chairman of the committee or in his absence the member elected by the members present to act as chairman shall preside;

(c) All questions shall be decided by a majority of votes of the members present and voting; and

(d) The chairman of the committee or other member presiding shall have a deliberative vote and in the event of an equality of votes shall also have a casting vote.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 5.

17H. Functions of the committee. (1) The committee may initiate and refer to the Brisbane Milk Board—

(a) Recommendations for the exercise of the powers, or the performance of the functions, of the Board under this Part IIIA;
(b) Recommendations for the administration of the Milk Sales Promotion Fund; and

(c) Recommendations relating to the making and levying of an assessment under section 17J of this Act.

(2) It shall be the duty of the committee to consider and advise the Brisbane Milk Board upon such matters in question as the Board may from time to time refer to it relating to—

(a) Any proposal for the exercise of the powers, or the performance of the functions, of the Board under this Part IIIA;

(b) The administration of the Milk Sales Promotion Fund; and

(c) The making and levying of an assessment under section 17J of this Act.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 6.

171. Agreements for participation in the Milk Sales Promotion Scheme. Any Board (other than the Brisbane Milk Board), association or authority or person supplying milk or otherwise connected with the milk industry, including any wholesale vendor or any person authorised to establish and carry on a pasteurisation plant pursuant to Part VI of this Act, may enter into an agreement with the Brisbane Milk Board upon such terms and conditions as may be specified in the agreement to collaborate with the Brisbane Milk Board in the taking or arranging for the taking of any action which in the opinion of that Board is likely to promote the sale in Queensland of milk for liquid consumption and in particular is likely to expand existing markets or to secure new markets in Queensland for milk for liquid consumption.

Such an agreement may provide for payment to the Board for the purposes of this Part IIIA by any party thereto of such amount or periodical amounts as may be specified therein, but so that such a provision shall not affect any liability imposed upon any such party by section 17J of this Act in respect of an assessment under that section.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 6.

17J. Power of Board to make and levy assessments. (1) The Brisbane Milk Board may from time to time for the purposes of this Part IIIA make an levy such assessment as is for the time being determined by the Board on milk supplied—

(a) To any wholesale vendor for use within—

(i) The Brisbane Milk District; or

(ii) The district of any other Milk Board which has entered into an agreement with the Brisbane Milk Board pursuant to section 171 of this Act; or

(b) To any wholesale vendor who has entered into an agreement with the Brisbane Milk Board pursuant to section 171 of this Act for use within any area outside a milk district.

(2) Any such assessment shall not exceed an amount of one farthing per gallon of milk.

(3) Upon the making of an assessment under this section every wholesale vendor (which expression includes, in the case of any person authorised to establish and carry on a pasteurisation plant pursuant to Part VI of this Act, such person) shall pay to the Brisbane Milk Board the
amount of such assessment upon the actual number of gallons of milk subject to an assessment under this section received by him during each and every calendar month and the amount thereof payable for each month shall be remitted by the wholesale vendor to the Brisbane Milk Board within fifteen days after the last day of that month:

Provided that any wholesale vendor not carrying on business within a district or area referred to in subsection one of this section shall, to the extent of all milk supplied by him to a wholesale vendor carrying on business within such district or area, be exempt from the requirements of this subsection but the wholesale vendor carrying on business within the district or area shall pay and remit the amount of the assessment on that milk in accordance with this subsection.

(4) Every wholesale vendor carrying on business within a district or area referred to in subsection one of this section may deduct from the moneys payable by him to a producer or to any other wholesale vendor for milk subject to an assessment under this section delivered to him by such producer or wholesale vendor during the month in question the amount of the assessment payable by him to the Brisbane Milk Board with respect to the milk:

Provided that where the agreement entered into by a wholesale vendor with the Brisbane Milk Board pursuant to section 171 of this Act provides for the payment by such wholesale vendor of part of the assessment, such deduction shall be limited to the remaining part of the assessment.

(5) The amount of the assessment under this section unpaid to the Brisbane Milk Board by a wholesale vendor shall constitute a debt due and owing by him to the Board and the Board may recover the same from him by action in any court of competent jurisdiction.

(6) An assessment made under this section shall be subject to confirmation by the Minister and upon such confirmation a notice of the making thereof shall be published in the Gazette and thereupon the assessment shall be deemed to be duly made and levied and shall be payable as prescribed by this section and, if not so paid, recoverable.

(7) The assessment shall be due and payable as from the date of the publication of the notice thereof in the Gazette unless such notice prescribes some other date in which event the assessment shall become due and payable as from the notified date.

(8) The Brisbane Milk Board may by notice published in the Gazette vary or otherwise alter the amount of the assessment at any time and from time to time.

Any such variation or alteration shall be subject to confirmation by the Minister.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 6.

17k. Power to extend Milk Sales Promotion Scheme to other products. (1) The Governor in Council may by Proclamation published in the Gazette declare that this Part IIIA shall extend and apply to and with respect to cream and thereupon the provisions of this Part IIIA shall extend and apply to and with respect to cream.

For the purpose of extending and applying section 17J of this Act to cream pursuant to a Proclamation under this section, subsection two shall be read as if “three pence” were substituted for “one farthing.”
Every other provision of this Part IIIA extended and applied by Proclamation under this section to cream shall, for the purpose of so applying that provision, be read with and subject to all necessary adaptations.

(2) Where the provisions of this Part IIIA have been extended and applied by Proclamation under this section to cream, a separate fund may be established and kept in respect of cream or payments with respect thereto may be made into or out of the fund established and kept according to the expressed provisions of this Part IIIA.

(3) Nothing in this section shall limit or affect howsoever the application of this Part IIIA according to its provisions or be deemed to require the making of any Proclamation under this section precedent to applying any of the provisions of this Part IIIA as the same are expressed to apply.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 6.

**PART IIIA—FIXING AND DECLARATION OF PRICE OF MILK AND CREAM**

**171. Power of Brisbane Milk Board to fix and declare prices.** (1) The Brisbane Milk Board with the approval of the Minister may, after such inquiries as it considers desirable, by order fix and declare—

(a) The minimum price or prices which may be paid to any wholesale vendor who carries on business as such without the Brisbane Milk District or to any producer for milk or cream supplied by him for use within the Brisbane Milk District; and/or

(b) The maximum price or prices at which milk or cream, including the container (if any), may be sold in the Brisbane Milk District.

(2) Without limiting the generality of subsection one of this section, the Brisbane Milk Board in the exercise of its powers under that subsection may fix and declare—

(a) Different minimum or maximum prices (whether for wholesale or retail sale) according to differences in quality, grade, class or description of any milk or cream or in the quantity of the milk or cream sold or in respect of different conditions of collection, treatment, delivery or sale or in respect of milk or cream produced in different areas or delivered, distributed or sold in different areas or in respect of different purposes for which any milk or cream is to be used;

(b) The price or prices which may be paid to or charged by any person for the collection, treatment, storage, distribution or delivery of milk or cream;

(c) The price or prices to be paid by retail vendors or other persons for milk or cream bought by wholesale for re-sale or for subsequent use; and

(d) Minimum or maximum prices according to or upon such principle or condition as the Board may think fit.

(3) In fixing and declaring any minimum price under this section the Board shall have regard to costs of production of the milk or cream and shall take into consideration such rates of allowance, as may be
approved by the Minister, to cover the producer’s own labour and management, the labour of the producer’s family, interest on capital employed and land and stock values.

(4) In the fixing and declaration of any minimum or maximum price the Board shall have regard to all relevant factors including drought conditions in areas of production and the effect upon consumption of any variation in the minimum or maximum prices.

(5) Any order for the fixation and declaration of prices under this section—

(a) Shall if approved by the Minister be published in the Gazette and shall have effect from the date specified in the notification; and

(b) May be revoked, varied or amended as the Brisbane Milk Board thinks fit by any subsequent order made with the approval of the Minister and so published.

Heading and section inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 7.

As to orders, directions, etc., see s. 62.

17M. Board to furnish information to Minister. (1) For the purpose of enabling the Minister to determine whether he should approve or refuse to approve of any order by the Brisbane Milk Board pursuant to section 17L of this Act fixing and declaring any price, the Board shall furnish to the Minister all information which he may require as to the basis or bases upon which the Board has fixed and declared that price.

(2) For the purpose of carrying out the powers and functions conferred upon it by section 17L of this Act, the Board may require any producer, retail vendor, wholesale vendor or other person engaged in the business of production, collection, treatment, carriage, sale, delivery or supply of milk or cream for use in the Brisbane Milk District to produce to the Board any books of account and any other document kept or prepared in connection with such business and to supply to the Board such other particulars in relation to the business as the Board shall require.

(3) The Board may for a period not exceeding twenty-eight days retain the books, balance sheets, copies and documents produced pursuant to a requirement of the Board pursuant to subsection two of this section.

(4) Any person who fails in any respect to comply with any requirement of the Board made pursuant to subsection two of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 7.

17N. Fixation and declaration of prices in area of Board other than Brisbane Milk Board. (1) The chairman of the Brisbane Milk Board with the approval of the Minister shall, if so directed by the Minister and may of his own volition or if so requested by the producers, wholesale vendors or persons who sell by retail milk or cream or milk and cream, after such inquiries as he considers desirable, by order fix and declare—

(a) The minimum price or prices which may be paid to any producer for milk or cream supplied by him for use within a district or area outside the Brisbane Milk District; and/or
(b) The maximum price or prices at which milk or cream, including the container (if any), may be sold by wholesale and/or by retail in such a district or area.

(2) The provisions of subsections two to five (both inclusive) of section 17L and of section 17M of this Act shall apply and extend, with and subject to all necessary adaptations, to the fixing and declaration of any minimum or maximum price or prices under this section and any inquiries in relation thereto and without limiting the generality hereof those provisions shall be read as if the words "chairman of the Brisbane Milk Board" were substituted for the words "Brisbane Milk Board" and the words "district or area in question" were substituted for the words "Brisbane Milk District".

(3) Any request referred to in this section shall be accompanied by such sum as the Brisbane Milk Board shall, subject to the approval of the Minister, require.

Such Board may apply such sum in or towards defraying the costs incurred by the chairman thereof in making inquiries in relation to such request, and notwithstanding that it is refused.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 8.

As to orders, directions, etc., see s. 62.

17o. Costs in respect of the fixation and determination of minimum prices to producers. (1) Any costs incurred by the chairman of the Brisbane Milk Board in respect of the fixation and declaration of any minimum price or prices mentioned in paragraph (a) of subsection one of section 17N of this Act and in making any inquiries in relation thereto or, in the case of any request mentioned in subsection one of the said section 17N in respect of such a price or prices, in making any inquiries in relation to such request and notwithstanding that it is refused, may be recovered by the Brisbane Milk Board by an assessment made and levied by that Board upon milk and cream or milk or cream supplied for use in the district or area in respect whereof such price or prices was or were fixed and declared or, as the case may be, such request was made.

(2) Any assessment made under this section shall be subject to the approval of the Minister.

(3) Upon the making of an assessment under this section, every wholesale vendor shall pay to the Brisbane Milk Board the amount of such assessment upon the actual number of gallons of milk or, according to the article on which the assessment is made and levied, cream received by him during each and every calendar month and the amount thereof payable for each month shall be remitted by the wholesale vendor to the Brisbane Milk Board within fifteen days after the last day of that month:

Provided that any wholesale vendor not carrying on business within the district or area in question shall, to the extent of all milk or cream subject to an assessment under this section supplied by him to a wholesale vendor carrying on business within such district or area, be exempt from the requirements of this subsection but the wholesale vendor carrying on business within the district or area in question shall pay and remit the amount of the assessment on that milk or cream in accordance with this subsection.
(4) Every wholesale vendor carrying on business within the district or area in question may deduct from the moneys payable by him to a producer or to any other wholesale vendor for milk or cream subject to an assessment under this section delivered to him by such producer or wholesale vendor during the month in question the whole of the amount of the assessment payable by him to the Brisbane Milk Board with respect to the milk or cream.

(5) The amount of the assessment unpaid to the Brisbane Milk Board by a wholesale vendor shall constitute a debt due and owing by him to that Board and the Board may recover the same from him by action in any court of competent jurisdiction.

(6) When the Brisbane Milk Board makes an assessment under this section, a notice of the making thereof shall be published in the Gazette and thereupon such assessment shall be deemed to be duly made and levied and shall be payable as hereinbefore prescribed and, if not so paid, recoverable.

(7) The assessment shall be due and payable as from the date of the publication of the notice thereof in the Gazette unless such notice prescribes some other date in which event the same shall become due and payable as from the notified date. The assessment shall cease to be payable as from a date specified in that behalf in the notice of the assessment published in the Gazette.

(8) The Brisbane Milk Board, with the approval of the Minister, may by notice published in the Gazette vary or otherwise alter the amount of the assessment at any time and from time to time.

17p. Costs in respect of the fixation and declaration of maximum wholesale or retail prices of milk or cream. (1) Any costs incurred by the chairman of the Brisbane Milk Board in respect of the fixation and declaration of any maximum price or prices mentioned in paragraph (b) of subsection one of section 17N of this Act, and in making any inquiries in relation thereto, or in the case of any request mentioned in subsection one of the said section 17N in respect of such a price or prices, in making any inquiries in relation to such request and notwithstanding that it is refused, may be recovered by the Brisbane Milk Board—

(a) If such price or prices were fixed and declared or, as the case may be, such request was made in relation to the sale by wholesale of milk or cream, or milk and cream, in any district or area, from the wholesale vendors carrying on business within such district or area; or

(b) If such price or prices were fixed and declared or, as the case may be, such request was made in relation to the sale by retail of milk or cream, or milk and cream, in any district or area, from the persons who sell by retail milk or cream, or milk and cream, within such district or area.

(2) Where any fixation and declaration of prices or any request mentioned in subsection one of this section relates both to the sale by wholesale and to the sale by retail of milk or cream, or both milk and cream, in any district or area, the total costs recoverable by the Brisbane Milk Board under this section in respect thereof shall be divided as such
Board determines between the wholesale vendors carrying on business and the persons selling by retail milk or cream, or milk and cream, in such district or area.

(3) The aggregate of any costs recoverable by the Brisbane Milk Board under this section from any wholesale vendors or from any persons who sell by retail milk or cream, or milk and cream, shall be apportioned among such wholesale vendors or, as the case may be, persons as the Board deems fit.

In making such apportionment the Board shall have regard to the quantities of milk or cream, or milk and cream, sold by such wholesale vendors or, as the case may be, persons respectively.

(4) The amount apportioned under subsection three of this section of any costs recoverable by the Brisbane Milk Board under this section, unpaid by the wholesale vendor or person to whom such amount has been apportioned, shall constitute a debt due and owing by him to such Board, and the Board may recover the same from him by action in any court of competent jurisdiction.

(5) The recovery by the Brisbane Milk Board of any costs under this section, and the division or apportionment thereof under subsections two or three of this section, shall be subject to the approval of the Minister.

Inserted by Act of 1961, 10 Eliz. 2 No. 19, s. 8.

As to orders, directions, etc., see s. 62.

PART IV—SPECIAL PROVISIONS RELATING TO THE REGULATION AND CONTROL OF MILK AND CREAM SUPPLIES AND SUPPLIERS

DIVISION I—REGISTRATION OF PRODUCERS, WHOLESALE VENDORS, AND RETAIL VENDORS

18. Power to cause registration of producers, wholesale vendors, and retail vendors. The Minister may upon the recommendation of the Milk Board for a Milk District fix by notification published in the Gazette a date on and from which the provisions of this Division I of Part IV of this Act shall apply and be in full force and effect in relation to that Milk District and Milk Board, and on and from the date so fixed such provisions shall apply and be in full force and effect accordingly.

For notification under this section fixing 1 July 1954 as date from which Division I of Part IV applies in relation to Brisbane Milk District and Board, see Gazette 3 April 1954, p. 1162.

For powers to prescribe matters for registration of producers, see s. 24.

19. Offences by persons not holding certificates of registration, etc. (1) A person shall not supply or sell at any time any milk or cream for use or treatment within a Milk District unless at that time that milk or cream is supplied or sold by him under the authority of, and in compliance in every respect with the conditions of a certificate of registration granted under this Division of this Part of this Act by the Milk Board for that Milk District.

This subsection applies with respect to all milk or cream for use or treatment within a Milk District—

(i) Whether produced therein or thereout; and

(ii) Whether supplied or sold therein or thereout.
(2) A person shall not in any Milk District at any time, treat any milk or cream unless at that time that person is the holder of a wholesale vendor's certificate of registration granted under this Division of this Part of this Act by the Milk Board for that Milk District which specifically authorises him to treat, in that District, that milk or cream:

Provided that this subsection does not apply with respect to the treatment by a producer of milk or cream produced by him.

(3) Any person who at a time when a wholesale vendor or retail vendor acting or carrying on business as such within a Milk District is not the holder of a certificate of registration granted under this Division of this Part of this Act by the Milk Board for that Milk District, supplies or sells milk or cream to that wholesale vendor or, as the case may be, retail vendor shall be guilty of an offence against this Act.

20. Certificates of registration. (1) There shall be, in respect of a Milk District, three classes of certificates of registration as follows, namely:—

(i) A producer's certificate of registration—which shall authorise the holder thereof to supply or sell (in compliance in every respect with the conditions, if any, prescribed for certificates of that class and the additional conditions, if any, set out in the certificate) for use or treatment in that Milk District milk, or cream, or milk and cream, according as the certificate specifies, produced by him;

(ii) A wholesale vendor's certificate of registration—which shall authorise the holder thereof to supply or sell by wholesale (in compliance in every respect with the conditions, if any, prescribed for certificates of that class, and the additional conditions, if any, set out in the certificate), for use or treatment in that Milk District milk, or cream, or milk and cream, according as the certificate specifies, not produced by him;

(iii) A retail vendor's certificate—which shall authorise the holder thereof to sell by retail in that District (in compliance in every respect with the conditions prescribed for certificates of that class and the additional conditions, if any, set out in the certificate) milk, or cream, or milk and cream, according as the certificate specifies, not produced by him, from any vehicle used by the holder thereof for the distribution of milk or from specified premises.

(2) A Milk Board may, from time to time, grant in respect of the Milk District for which it is constituted, such and so many certificates of registration of each class as it deems fit.

(3) (a) For the purposes of this Act, every certificate of registration shall be deemed to be granted subject to the conditions, if any, prescribed for certificates of that class and the additional conditions, if any, set out in the certificate, and the Board may grant any such certificate subject to such conditions, additional to, but not inconsistent with, any conditions prescribed for certificates of that class, as the Board deems fit either generally or in the particular case to impose, but in every such case the additional conditions shall be set out in the certificate.
(b) Without limiting the generality of the provisions of paragraph (a) of this subsection and of subsection one of section twenty-three of this Act, the conditions which may be prescribed, or if not prescribed, which may be imposed, by a Board under this section or under section twenty-three of this Act for any certificates of registration may include all or any of the following conditions:—

(i) That the holder thereof shall only be authorised thereby to supply or sell milk or cream in, or as the case may be, for use or treatment in the Milk District in question of the classes and grades specified in such certificate;

(ii) That the holder thereof shall only be authorised thereby to supply or sell milk or cream in, or as the case may be, for use or treatment in the Milk District in question from the premises specified in such certificate;

(iii) That the holder thereof shall only be authorised thereby to supply or sell milk or cream in, or as the case may be, for use or treatment in the Milk District in question in accordance with the methods or circumstances specified in such certificate or as otherwise so specified.

For definitions, see s. 5.

21. Further provisions with respect to certificates of registration. (1) A wholesale vendor's certificate of registration under this Division of this Part of this Act may authorise the holder thereof to treat in the Milk District in respect whereof that certificate is granted milk, or cream, or, according as that certificate specifies, milk and cream.

(2) The holder of a wholesale vendor's certificate of registration under this Division of this Part of this Act may supply or sell by retail any milk or cream which he is thereby authorised to supply or sell by wholesale provided that he does so in compliance in every respect with the conditions, if any, prescribed for retail vendor's certificates of registration and the additional conditions, if any, set out in that certificate in relation to sales by retail by him in the Milk District in question of milk or cream.

(3) A Milk Board may, upon application by a holder of a producer's certificate of registration under this Division of this Part of this Act, authorise him to supply or sell, for use or treatment in the Milk District of that Board, milk or cream not produced by that producer as well as milk or cream produced by him.

Such authority shall be granted by endorsement upon the producer's certificate of registration and may, as respects milk or cream not produced by that producer, be the authority expressed by the provisions of paragraph (ii) of subsection one of section twenty of this Act to be granted by a wholesale vendor's certificate of registration or the authority expressed by the provisions of paragraph (iii) of the said subsection to be granted by a retail vendor's certificate of registration.

Authority granted by endorsement as aforesaid shall be had and exercised by the holder of the producer's certificate of registration in question in compliance in every respect with the conditions, if any, prescribed for wholesale vendor's certificates of registration or, according to the authority granted by the endorsement, retail vendor's certificates.
of registration and the additional conditions, if any, set out in the producer's certificate of registration in relation to the authority granted by the certificate of endorsement.

Every producer shall pay for an endorsement as aforesaid the fee payable for a wholesale vendor's certificate of registration or, according to the authority granted by the endorsement, for a retail vendor's certificate of registration less the amount, if any, paid by him for his producer's certificate of registration.

An endorsement upon a producer's certificate of registration pursuant to this subsection shall be regarded as forming part of that producer's certificate of registration.

Treat—See s. 24.

For definitions generally, see s. 5.

22. (1) Assignment or transfer of certificates of registration to be approved, etc. No certificate of registration under this Division of this Part of this Act shall be capable of being assigned or transferred except with the prior approval of the Milk Board which granted that certificate endorsed thereon, and any assignment or transfer otherwise than with such approval shall be absolutely void.

(2) Power of a Milk Board as to registrations, etc. The Milk Board, in relation to whose District an application for any certificate of registration or for the renewal or assignment or transfer of any certificate of registration under this Division of this Part of this Act is made, may grant or refuse to grant such certificate or renewal or assignment or transfer of such certificate, as the case may be.

23. Suspension or cancellation of certificates, etc. (1) (a) A Milk Board may on the renewal, assignment, or transfer of any certificate of registration granted by it under this Division of this Part of this Act, or at any other time whenever during the currency of such a certificate, by notice in writing to the holder thereof, suspend for such period as it thinks fit or cancel that certificate, or vary the conditions specified therein to which that certificate is subject, or impose new conditions (not inconsistent with the conditions, if any, prescribed for certificates of that class) to which the certificate shall be subject, and, without limiting the generality of the foregoing, in particular, if the holder has failed to observe and comply with any condition to which a certificate is subject, may suspend the certificate for such period as it thinks fit, or cancel the certificate.

(b) For the purposes of this Act, a notice given under this subsection to the holder of a certificate of registration varying the conditions to which that certificate is subject or imposing new conditions to which the certificate shall be subject shall be deemed to form part of that certificate.

(2) Appeals. (a) If any certificate of registration is refused or suspended or cancelled or the renewal, assignment, or transfer of a certificate of registration is refused under this Division of this Part of this Act the applicant or, as the case may be, person previously registered thereby affected may, within the time prescribed and otherwise subject to this Act, appeal against the refusal or suspension or cancellation as the case may be, to the Minister.

(b) The Minister may hear and determine the appeal, or he may determine the matter after referring it to any one or more persons for the purpose of his or their inquiring into and investigating such matter and furnishing to him a report thereon.
After hearing the matter or upon receipt of the said report, the Minister may, in his absolute discretion, dismiss or allow the appeal or substitute therefor such other decision as he thinks just and proper in the circumstances and such decision shall be final and given effect to by the Milk Board concerned.

Without limiting the powers of the Minister under this subsection, the Minister may at any time refuse to determine an appeal or refuse to further proceed to the determination of an appeal under this section, if he is of or forms the opinion that such appeal is merely frivolous or vexatious.

(c) Each and every appellant under this subsection shall, in the manner prescribed, give notice of his appeal to the person specified by the regulations to receive notices of appeal under this section, or if no such person is so specified, to the Minister, and shall deposit with the Minister, or some person authorised by the Minister, the sum of four dollars to meet the cost and expenses, if any, incurred by the Minister in hearing the appeal or causing the appeal to be inquired into and investigated.

The Minister may determine, in his discretion, that the money deposited as aforesaid shall be applied to meet such cost and expenses in which event that deposit shall be so applied.

The Minister however may, in his discretion, authorise the refunding of the deposit or any part thereof.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Further as to refusal to grant or to renew, assign or transfer any certificate of registration, or license, see s. 55.

24. (1) Meaning of term "treat" in Division I of Part IV. In this Division of this Part of this Act the term "treat" used in relation to milk or cream means pasteurise or bottle, and derivatives of that term shall have a corresponding meaning.

(2) Power to prescribe matters for the registration of producers, etc. The Governor in Council may from time to time by Order in Council or the regulations prescribe either generally or to meet particular cases all or any matters and things he considers necessary or desirable to carry out the objects and purposes of this Division of this Part of this Act, including, but without limiting the generality of the foregoing provisions of this section, all or any of the following:—

(i) Providing for the appointment of a registrar (or, where there is more than one Milk District and if considered desirable, registrars) of holders of certificates of registration of the different classes;

(ii) Prescribing the forms of application for certificates of registration and for the renewal or assignment or transfer of certificates of registration of the different classes under this Division of this Part of this Act, the particulars and information to be supplied therein, and the places and times where and when such applications shall be made;

(iii) Prescribing the fees, if any, which shall accompany applications for certificates of registration and for the renewal or assignment or transfer of certificates of registration of the different classes under this Division of this Part of this Act;
(iv) Prescribing the forms of certificates of registration of the different classes under this Division of this Part of this Act and the manner of renewing or assigning or transferring the same;

(v) Prescribing the period for which any certificate of registration, including the renewal of that certificate of registration, shall be in force;

(vi) Prescribing, regulating, and controlling all or any matters and things as may be considered necessary or desirable in relation to the surrender, transfer, renewal, cancellation, and endorsement of certificates of registration of the different classes under this Division of this Part of this Act, and the issuing of duplicate certificates and the effect of such duplicates, and providing for the inspection of all or any certificates and their production for that purpose as well as their delivery for the purpose of endorsement under this Act, or upon suspension or cancellation;

(vii) Prescribing, regulating and controlling all or any matters and things as may be considered necessary or desirable in relation to the making, hearing, and determination of appeals under this Division of this Part of this Act and for the making of such determinations effective and otherwise to carry out the objects and purposes of this Division of this Part of this Act.

(3) When milk-seller's license not required. The provisions of subsection one of section one hundred and fifteen of "The Health Acts, 1937 to 1949," shall not apply with respect to any person who is the holder of any certificate of registration granted under this Division of this Part of this Act while that certificate remains in force.

Act referred to:

DIVISION II—CARRIERS' LICENSES

25. Application of this Division. (1) This Division II of this Part of this Act shall be read subject to "The State Transport Facilities Acts, 1946 to 1951," and the regulations thereunder, and no provision of this Division of this Act, or license granted thereunder, or condition of such a license, shall authorise or be deemed to authorise a person to use or to permit or allow to be used on any road at any time a vehicle for the carriage of milk in contravention of "The State Transport Facilities Acts, 1946 to 1951," or the regulations thereunder.

(2) The provisions of "The Dairy Produce Acts, 1920 to 1952," relating to milk routes and cream routes shall not apply with respect to milk or cream conveyed by road under the authority of, and in compliance in every respect with the conditions of, a carrier's license granted under this Division II of this Part of this Act.

Acts referred to:
State Transport Facilities Acts, 1946 to 1951; see now State Transport Acts, 1960 to 1965, title TRANSPORT.

26. Carriage of certain milk or cream by road without carrier's license an offence. (1) A person shall not—

(i) Pick up at any place on or adjacent to any road within a Milk District any milk or cream; or
(ii) Pick up at any place on or adjacent to any road without a Milk District any milk or cream consigned to, or for delivery to, any person or place within a Milk District; or

(iii) Convey by road within a Milk District any milk or cream; or

(iv) Convey by any road without a Milk District any milk or cream consigned to, or for delivery to, any person or place within a Milk District, except under the authority of and in compliance in every respect with the conditions of a carrier's license granted under this Division of this Part of this Act.

(2) The provisions of subsection one of this section shall not apply with respect to the picking up and conveyance of any milk or cream in accordance with all hygienic conditions, if any, prescribed for this purpose, solely in the course of the sale or distribution of that milk or cream by retail, or solely by the producer of that milk or cream.

Offences are dealt with by s. 57.

27. Power to grant carriers' licenses, etc. (1) A carrier's license which may be granted from time to time by the Milk Board for a Milk District and for the purposes of this Division of this Part of this Act shall authorise the holder thereof—

(i) To pick up at any place on or adjacent to any road or, if the authority to pick up is granted only in respect of a particular road or particular roads, the road or roads specified therein—

(A) (If that place is within the Milk District for which the Board granting the license is constituted) any milk or cream or any milk and cream, as the license specifies; or

(B) (If that place is without the Milk District for which the Board granting the license is constituted) any milk or cream or any milk and cream, as the license specifies, consigned to, or for delivery to, any person carrying on any business or to any place situated within the Milk District; and

(ii) To convey by any roads or, if the authority to convey is granted only in respect of a particular road or particular roads, the road or roads specified therein, for delivery or further consignment to the wholesale vendor or other person to whom or to the place where, the article picked up under this authority is consigned or to be delivered:

Provided that any carrier's license granted under this Division of this Part of this Act by a Milk Board may be granted subject to such other conditions whatsoever as the Milk Board thinks fit to impose, and without limiting the generality thereof, may include all or any of the following conditions:—

(i) That the holder thereof shall only be authorised thereby to pick up milk or cream or milk and cream, as the case may be, from the persons or at the places specified in such license;

(ii) That the holder thereof shall only be authorised thereby to convey milk or cream or milk and cream, as the case may be, for delivery to or further consignment to the wholesale vendor or wholesale vendors or other person or persons
specified therein and, as regards further consignment, may be limited to the conveyance to a loading place stated in the license upon a State railway or upon a tramway stated therein or some other place of further consignment:

Provided further that all conditions subject to which any carrier’s license is granted shall be set out in that license.

(2) Every carrier’s license shall be deemed to be granted subject to all conditions set out in that license.

28. (1) **Power of a Milk Board as to grant of carriers’ licenses, etc.** The Milk Board, in relation to whose District an application for a carrier’s license or for the renewal or assignment or transfer of a carrier’s license under this Division of this Part of this Act is made, may grant or refuse to grant such license or renewal or assignment or transfer of such license, as the case may be.

(2) **Assignment or transfer of carrier’s license to be approved, etc.** No carrier’s license under this Division of this Part of this Act shall be capable of being assigned or transferred except with the prior approval of the Milk Board which granted that license endorsed thereon, and any assignment or transfer otherwise than with such approval shall be absolutely void.

29. **Offences by wholesale vendors, etc.** Any wholesale vendor or other person whomsoever shall not accept delivery, whether on his own account or on account of any other person, of any milk or cream which is picked up or conveyed contrary to any provision of this Division of this Part of this Act by any person (whether or not the holder of a carrier’s license under this section).

Offences are dealt with by s. 57.

As to evidence, see s. 58.

30. **Application of s. 23.** With respect to carriers’ licenses granted by it under this Division of this Part of this Act the Milk Board (or with respect to carriers’ licenses originated under “The Milk Supply Act of 1938” and which by this Act are deemed to have originated under this Division of this Part of this Act, the Brisbane Milk Board) may exercise, do, and take all such powers, things, and steps as are authorised by this Act to be exercised, done, or taken under subsection one of section twenty-three of this Act (on the fixing of a date under section eighteen of this Act) with respect to certificates of registration granted by it under Division I of this Part of this Act, and any applicant or licensee affected by the refusal of his application or the suspension or cancellation of his carrier’s license may, within the time prescribed and otherwise subject to this Act, appeal against that refusal or suspension or cancellation, as the case may be.

For the purposes of this section, all the provisions of section twenty-three of this Act shall extend and apply and any reference therein to “certificate of registration” shall be deemed to be a reference to “carrier’s license” and any reference therein to “certificate” shall be deemed to be a reference to “license”, and those subsections shall be read subject to all such other adaptations thereof as are necessary for the purposes of their application as hereinbefore in this section provided.

Act referred to:

Milk Supply Act of 1938, repealed.
31. Power to prescribe matters with respect to carriers' licenses. The Governor in Council may from time to time by Order in Council or the regulations prescribe either generally or to meet particular cases all or any matters and things he considers necessary or desirable to carry out the objects and purposes of this Division of this Part of this Act, including, but without limiting the generality of the foregoing provisions of the subsection, all or any of the matters and things with respect to carriers' licenses which may, with respect to certificates of registration, be prescribed pursuant to subsection two of section twenty-four of this Act.

DIVISION III—SECURITIES BY WHOLESALE VENDORS

32. (1) Application of section. The provisions of this section shall apply with respect to all wholesale vendors acting as or carrying on business as such within a Milk District as well as to all wholesale vendors acting as or carrying on business as such without a Milk District and supplying or selling any milk or cream or milk and cream for use within a Milk District, and shall commence to so apply—

(i) In relation to the Brisbane Milk District, on and from the expiration of one month commencing on the date of the coming into operation of this Act; and

(ii) In relation to any other Milk District, on and from the expiration of one month commencing on the date of the first appointment of the members of the Milk Board for that Milk District.

(2) Wholesale vendors to deposit security. A person shall not at any time act as or carry on business as a wholesale vendor with respect to whom this section applies unless—

(i) A fidelity bond in accordance with this section in the prescribed amount has been obtained by him from the Insurance Commissioner appointed under "The Workers' Compensation Acts, 1916 to 1952," or some insurer within the meaning of "The Insurance Acts, 1916 to 1940," and lodged with the Milk Board for that Milk District and that fidelity bond is then in force; or

(ii) In lieu of such fidelity bond, he has deposited with the Minister the prescribed sum of money and that sum then remains so deposited; or

(iii) He is then exempted by the Minister from obtaining and lodging the fidelity bond or making the deposit as aforesaid.

(3) Fidelity Bonds. (a) The obligee of every fidelity bond for the purposes of this section shall be Her Majesty the Queen.

(b) The condition of every such bond shall be that if the wholesale vendor while acting as or carrying on business as such shall not fail in the opinion of the Minister to duly pay all moneys payable by him to producers and to other wholesale vendors, whether within or without a Milk District, for milk and cream supplied, then the obligation of the obligor shall be void and of none effect; otherwise it shall remain in full force and virtue.

(4) Cash deposit. The prescribed sum of money deposited by a wholesale vendor with the Minister, in lieu of a fidelity bond, for the purposes of this section shall be deposited with and held by the Minister
as a security that the wholesale vendor while acting as or carrying on business as such shall not fail in the opinion of the Minister to duly pay all moneys payable by him to producers and to other wholesale vendors, whether within or without a Milk District, for milk and cream supplied.

The Minister shall pay to every depositor under this section during such time as the Minister retains such deposit as security, interest at the rate payable for the time being to depositors in the Commonwealth Savings Bank.

(5) **Amount of security.** A fidelity bond or deposit of money as provided by this section shall be of such amount as may be prescribed from time to time, and different amounts may be prescribed with respect to different wholesale vendors according to the volume of their respective businesses.

(6) **Forfeiture.** The Minister shall have full power and authority to forfeit to Her Majesty the Queen any fidelity bond lodged or sum of money deposited pursuant to this section by a wholesale vendor who in the opinion of the Minister has failed to duly pay all moneys payable by him to producers and to other wholesale vendors, whether within or without a Milk District, for milk and cream supplied.

Where upon any such forfeiture part only of the said moneys paid to Her Majesty is found sufficient to make full payment to producers and other wholesale vendors as aforesaid, then the balance remaining of such moneys shall, without further or other authority, be refunded to the person who paid such moneys on the forfeiture of the fidelity bond or, as the case may be, who deposited the forfeited cash deposit.

(7) **Payment on forfeiture.** Moneys paid to Her Majesty upon the forfeiture of any fidelity bond lodged or sum of money deposited pursuant to this section by a wholesale vendor, or such part thereof as is necessary for the purpose, shall be applied by the Milk Board directed by the Minister so to do, in making payment in accordance with this Act to producers and other wholesale vendors who have suffered loss by reason of the failure by the wholesale vendor first mentioned to duly pay them for milk and cream supplied.

(8) **Power of the Minister to exempt.** If the Minister is satisfied that the due payment of all moneys payable by a wholesale vendor to producers and to other wholesale vendors, whether within or without a Milk District, for milk and cream supplied, is guaranteed by a Bank, or if a wholesale vendor is an association within the meaning of "The Primary Producers' Co-operative Associations Acts, 1923 to 1934," or a society within the meaning of "The Co-operative Societies Acts, 1946 to 1951," he may at his absolute discretion exempt such wholesale vendor from obtaining and lodging a fidelity bond or making a deposit of moneys under this section.

An exemption granted by the Minister under this subsection may be cancelled by him at any time at his absolute discretion.

Acts referred to:

Primary Producers' Co-operative Associations Acts, 1923 to 1965, title PRIMARY PRODUCE.
Co-operative Societies Acts, 1946 to 1962, title SOCIETIES.
For definitions, see s. 5.
33. **Quotas.** (1) The chairman of the Milk Board for a Milk District may from time to time determine the minimum or maximum or the minimum and the maximum quantity of milk or cream which any producer or wholesale vendor (whether acting as or carrying on business as such within or without that Milk District) may supply or sell for use within that District, and any such determination may or may not correspond with any other determination made under this section.

Such quantity may be so fixed upon a daily, weekly, or such other basis of supply, whether of a like nature or not, as the chairman directs.

In determining such minimum or maximum quantity or minimum and maximum quantities with respect to any producer or wholesale vendor regard shall be had, unless otherwise prescribed, to the actual quantity of milk or cream supplied by him for use within the District during such period preceding the date when such quantity or quantities are so determined as is from time to time fixed by the Milk Board for this purpose.

The period referred to in the next preceding paragraph may be fixed differently by the Board in respect of different producers according as the Board deems just having regard to the seasonal conditions experienced by the localities respectively in which the producers carry on business as such.

A determination made by the chairman of a Board under this subsection shall continue in force until cancelled by order of the chairman or until varied, whether by increase or decrease, by a subsequent determination made by the chairman:

Provided that the Board may direct the chairman to vary or cancel any such determination, and thereupon the chairman shall vary such determination to the extent as so directed, or, if directed to cancel such determination, by his order cancel it accordingly.

(2) For the purposes of this section and in addition to any other powers had by him under this Act the chairman of the Milk Board for a Milk District shall have power to require every wholesale vendor (whether acting as or carrying on business as such within or without that District) supplying or selling milk or cream for use within that District to furnish to him at any time and from time to time a return of all producers and of all other wholesale vendors who are supplying or selling to (or who during any specified period have supplied or sold to) such wholesale vendor milk or cream and to specify in such return the quantity of milk or cream or of milk and cream being supplied or sold (or, as the case may be, during the specified period has been supplied or sold) by each such producer or other wholesale vendor and, if the chairman so requires, the quantity of milk or cream or of milk and cream being supplied or sold (or during any specified period has been supplied or sold) by such wholesale vendor for use within that District and the quantity of milk or cream or of milk and cream being supplied or sold (or during any specified period has been supplied or sold) by such wholesale vendor for use without that District, and any other prescribed particulars.
(3) The chairman of the Milk Board for a Milk District may at any time and from time to time serve upon any wholesale vendor a list of producers or, if considered by the chairman to be necessary, a list of other wholesale vendors, or both such lists, showing the minimum or maximum quantity or the minimum and maximum quantities of milk or cream or of milk and cream fixed by the chairman which, in the case of a list of producers, each such producer and, in the case of a list of wholesale vendors, each such other wholesale vendor may supply or sell for use within the District.

Any list of producers, or as the case may be, wholesale vendors served under this subsection upon any wholesale vendor shall be deemed to be the list referred to in subsection four of this section and shall for the purposes of that subsection remain in force until cancelled by writing under the hand of the chairman or by a subsequent list of producers, or as the case may be, wholesale vendors served upon that wholesale vendor by the chairman of that Milk Board.

(4) A wholesale vendor served with a list shall not, while that list remains in force, accept for use, whether by himself or by any other person whomsoever, within the Milk District with respect to which the list is issued from a producer or, as the case may be, other wholesale vendor included in such list a lesser quantity of milk or cream than the minimum quantity, or a greater quantity of milk or cream than the maximum quantity of milk or, as the case may be, cream which according to the determination of the chairman as shown therein may be supplied or sold by that producer or other wholesale vendor, as the case may be, for that purpose and neither shall he accept for use, whether by himself or by any other person whomsoever, within the Milk District with respect to which the list is issued milk or cream supplied by a producer or, as the case may be, other wholesale vendor who is not included in such list unless with the consent of the chairman of the Milk Board for that District first had and obtained.

(5) Any producer or wholesale vendor who supplies or sells for use within a Milk District a lesser quantity of milk or cream than the minimum quantity, or a greater quantity of milk or cream than the maximum quantity of milk or, as the case may be, cream which according to a determination then in force of the chairman of the Milk Board for that District in his case shall be guilty of an offence against this Act.

As to orders, directions, etc., see s. 62.

DIVISION V—PROHIBITION OF MONOPOLIES AND RESTRICTIVE PRACTICES WITH RESPECT TO THE SALE AND DELIVERY OF MILK AND CREAM

34. Illegal monopolies with respect to sale or distribution of milk, etc.

Any person who otherwise than pursuant to any Act—

(i) Monopolises or restricts or attempts to monopolise or restrict, or combines or conspires with any other person to monopolise or restrict, wholly or partially, the demand for or the sale or distribution of milk or cream in any Milk District or in any other part of Queensland or in any part of any Milk District or of any area of such other part; or
(ii) Combines or conspires with any other person to control, wholly or partially, the demand for or the sale or distribution of milk or cream in any Milk District or in any other part of Queensland, or in any part of any Milk District or of any area of such other part,

shall be guilty of an offence against this Act.

Offences, evidence—See ss. 57, 58.
As to construction, see s. 38.

35. **Duty of wholesale vendors to sell and supply milk and cream to certain retail vendors.** (1) Any wholesale vendor (whether acting as or carrying on business as such within or without a Milk District) shall at all times, on the request of a retail vendor and upon payment or tender of the wholesale price lawfully payable therefor, sell and deliver at the place where the wholesale vendor so acts or carries on business to that retail vendor any milk or cream which that retail vendor reasonably requires for his business as such:

Provided that if the adjudicating court is satisfied that an alleged offence against this section was not committed for a purpose of or connected with the contravention of any of the provisions of section thirty-four of this Act by the defendant or any other person whomsoever, it shall be a defence to a charge for an offence against this section, if the defendant proves that he had not sufficient milk or, as the case may be, cream to supply such retail vendor, and could not, by reasonable efforts, have obtained sufficient milk, or, as the case may be, cream, for that purpose.

(2) In this section the term "retail vendor" means a person carrying on or intending to carry on any business as a retail vendor within a Milk District—

(i) Who is licensed under "The Health Acts, 1937 to 1949" (including any regulations thereunder), to sell milk; and

(ii) If the provisions of Division I of Part IV of this Act are in force and have effect in relation to the Milk District, who holds a certificate of registration granted under that Division I authorising him to sell milk and cream by retail in that Milk District.

Act referred to:
As to construction, see s. 38.

36. **Power to determine minimum number of brands of milk and cream to be offered for sale by retail.** (1) The Milk Board for a Milk District from time to time may, in relation to any person selling milk or cream by retail in that District, determine the minimum number of different brands of milk or cream or milk and cream which that person shall at all times offer or have in possession for sale by retail, and shall upon making every such determination give notice thereof in writing to the person concerned.

The Milk Board may at any time revoke or from time to time vary any such determination.

(2) A determination under this section shall remain in force (and, if varied, as varied) until revoked.
(3) Any person who fails to comply with a determination in relation to him and in force under this section shall be guilty of an offence against this Act:

Provided that it shall be a defence to a charge for an offence against this section, if the defendant proves that he could not, by reasonable efforts, have complied with that determination at the time the offence is alleged to have been committed.

Offences, evidence—See ss. 57, 58.
As to construction, see s. 38.

37. Milk Boards may fix prices for goodwill. (1) The Milk Board for a Milk District may with the approval of the Minister from time to time determine with respect to that District the maximum amount that may be paid for the goodwill of the business of any wholesale vendor or retail vendor, and may with the approval of the Minister at any time revoke or from time to time vary any such determination:

Provided that before making or varying any such determination the Milk Board shall give the wholesale vendor or retail vendor concerned an opportunity of making representations to the Board in relation to the matter.

(2) Every determination made pursuant to this section shall remain in force (and, if varied, as varied) until it is revoked under this section.

(3) Notification of a determination under this section having been made or, as the case may be, revoked shall be published in the Gazette.

(4) Any person who after notification being published in the Gazette as aforesaid of a determination with respect to the business of any wholesale vendor or retail vendor sells or buys the goodwill of the whole or any part of such business at a price in excess of the amount for the time being determined under this section by the Milk Board shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding two hundred dollars or twice the amount of the excess, whichever is the greater.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

38. Construction of Division. Every provision of this Division of this Part of this Act shall be read so as neither to limit the application of, nor to be limited in its application by, any other provision of this Act.

DIVISION VI—VESTING OF MILK IN MILK BOARDS

39. Vesting of milk in Milk Board. (1) Whenever a Milk Board satisfies the Governor in Council that the supply or distribution of milk, from any reason whatsoever, is or is likely to be insufficient to meet all reasonable demands therefor in all parts of its Milk District and that the making of a Proclamation in relation to that District under this section is necessary or desirable, the Governor in Council may by Proclamation declare that, on and from the date specified in the Proclamation and while the Proclamation continues in force, all milk (whether produced within or without that Milk District) supplied or intended to be supplied for use within the Milk District, which District shall be specified in the Proclamation, shall become absolutely vested in and shall be the property of the Milk Board for that District.
(2) No such Proclamation shall apply to milk produced and sold directly by a producer on his own behalf to a person other than a wholesale vendor.

(3) On and from the date specified in any Proclamation under this section and while the Proclamation continues in force, all milk subject to the Proclamation shall become absolutely vested in and be the property of the Milk Board to which that Proclamation relates.

(4) A Proclamation under this section may—

(i) Provide for the vesting of all or any of the milk in the Milk Board subject to the observance of specified conditions and requirements;

(ii) Exempt from the Proclamation and the operation of this section any milk or class or classes of milk specified in the Proclamation (the Governor in Council being hereby authorised to grant such exemption as he considers desirable);

(iii) Provide for any other matters or things considered necessary or desirable to be so provided; and

(iv) Be revoked or amended by a subsequent Proclamation.

40. Delivery and acceptance of milk. (1) On or from the date specified in any Proclamation under section thirty-nine of this Act, and while the Proclamation continues in force, all milk vested pursuant to that section in the Milk Board to which that Proclamation relates shall be delivered to that Milk Board in accordance with the provisions of this section.

(2) For the purposes of this section the Milk Board from time to time may determine all or any of the following:—

(i) The places at which milk will be accepted by the Board;

(ii) The periods during which milk may be so delivered and accepted; and

(iii) Any other matters and things as may be prescribed for the purposes of this subsection.

(3) On and from the date specified in a Proclamation under section thirty-nine of this Act and while the Proclamation continues in force a person (whether a producer, wholesale vendor, retail vendor, or other person) shall not supply, sell, deliver, or otherwise dispose of to any person other than the Milk Board to which the Proclamation relates any milk (other than milk delivered to the Milk Board in accordance with the provisions of this section) vested pursuant to section thirty-nine of this Act in that Milk Board.

Moreover, a person other than such Milk Board shall not knowingly buy or receive any such milk.

(4) Any milk delivered to and accepted by a Milk Board in pursuance of this section may be disposed of by the Milk Board to such persons, including wholesale vendors and retail vendors, in such manner and upon and subject to such terms and conditions, if any, as the Board may determine.

(5) (a) All milk delivered to a Milk Board in pursuance of this section shall be delivered in the name of the producer by whom the milk was produced, except where milk is delivered by a wholesale vendor in such a manner that no part thereof is identifiable as the property of a particular producer when it shall be delivered in the name of that wholesale vendor.
Any person who contravenes or fails to comply with the provisions of this paragraph shall be guilty of an offence against this Act.

(b) Every delivery of milk in pursuance of this section to a Milk Board shall, for the purposes of “The Health Acts, 1937 to 1949,” or any other Act relating to the sale of milk, including any regulations thereunder, be deemed, in all respects, to be a sale of such milk to the Board by the producer or, as the case may be, wholesale vendor in whose name the milk is delivered, and the provisions of “The Health Acts, 1937 to 1949,” or other Act, including any regulations thereunder, shall apply accordingly.

(6) A Milk Board shall, in respect of all milk delivered to it in pursuance of this section, pay to the producers and wholesale vendors in whose names the milk was delivered respectively an amount calculated according to the minimum or, as the case may be, maximum price fixed and declared therefor under this Act.

(7) A Milk Board shall, out of the proceeds of all milk disposed of by the Board under this section, after making the payments referred to in subsection six of this section—

(i) Make provision for—

(A) Any expenditure incurred by the Board in the treatment, carriage, distribution, and sale of the milk;

(B) The costs, charges and expenses of the administration of this Division of this Part of this Act by the Board (not being costs, charges and expenses incurred prior to the date specified in the Proclamation under section thirty-nine of this Act); and

(C) Reducing or liquidating any amounts necessary to repay advances made to, and to provide a sinking fund in respect of any loan raised by, the Board for the purpose of enabling it to exercise and discharge its functions, powers, authorities, and duties under this Division of this Part of this Act, and to provide for payment of the interest payable in respect of such advances or loan; and

(ii) In accordance with the provisions of subsection eight of this section, make payments to each producer and each wholesale vendor in respect of milk delivered by him to the Board.

(8) Where, in respect of such period as the Board may determine, the Board has, out of the proceeds of the sale of milk delivered by producers and wholesale vendors to the Board under this section—

(i) Made the payments referred to in subsection six of this section; and

(ii) Made such provision for the matters specified in subsection seven of this section as the Board thinks reasonably appropriate to and in respect of the milk so delivered, the Board shall distribute among such producers and wholesale vendors, subject to the advances made or arranged for in pursuance of subsection eleven of this section on account of such milk, in proportion to the quantity of milk so delivered by each of them to the Board during such period, so much of the balance, if any, of such proceeds as the Board may determine to be available for distribution.
(9) For the purpose of ascertaining the price to be paid to a producer or wholesale vendor for milk delivered to the Board, the decision of the Board as to the class, grade, or quality or description of such milk and as to the quantity delivered, and the conditions of production, supply, collection, treatment, or delivery thereof, and as to the purpose for which such milk is to be used, or as to any of these things, shall be final and conclusive.

(10) Where any milk produced under a share-farming or partnership agreement is delivered to a Board in pursuance of this section, the Board, in its discretion, may make payments to each of the parties to such agreement in accordance with their respective interests in the milk delivered.

(11) A Board may make or arrange for advances on account of milk delivered to the Board in pursuance of this section and any such advances may be made at such time or times, and on such terms and conditions, and in such manner as the Board may think fit.

As amended by Act of 1961, 10 Eliz. 2 No. 19, s. 9.

Act referred to:

Offences, evidence—See 55. 57, 58.

41. Variation of contracts in consequence of vesting milk in a Board. (1) Every contract for the sale and purchase of milk, whether made before, on, or after the date specified in a Proclamation under section thirty-nine of this Act, so far as such contract relates to any milk subject to the Proclamation, shall be absolutely void and of no effect as from the date upon which the contract was made, except so far as it has been completed by delivery at the date of the publication of the Proclamation:

Provided that the provisions of any such contract shall, for the purposes of this section, be deemed to be severable, to the intent that any provision thereof which is not inconsistent with the provisions of the Proclamation shall be and remain a valid provision and shall be enforceable by and against the respective parties thereto in the same manner, and in all respects, as if the Proclamation had not been made.

(2) Any contract or transaction relating to any milk which is the subject-matter of any contract or part of a contract declared by this section to be void shall likewise be void and of no effect to a corresponding extent and any money paid thereunder or in respect thereof shall, to the extent to which such contract or transaction is made void, be repaid.

42. (1) Remedy against Board confined to claim for account. (a) Subject to this subsection, no proceedings shall be brought against a Board or any person acting under its authority by any person claiming to be entitled to any bill of sale, mortgage, charge, lien, or other encumbrance whatsoever of or upon or over any of the milk vested in that Board in pursuance of this Division of this Part of this Act, or claiming to be the true owner of the milk, as against the producer or wholesale vendor who delivered the milk to the Board.

(b) Subject to the provisions of paragraph (c) of this subsection, any person who but for this subsection might have brought any such action, may adopt the delivery of milk to the Board as a delivery by him to the Board, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount found due in any court of competent jurisdiction as a debt to him by the Board.
(c) Notwithstanding the provisions of any other Act or any rule of law to the contrary, any person as is referred to in paragraph (b) of this subsection shall not be entitled—

(i) So to claim an account, until he has given prior notice in writing to the Board, in the form and containing the particulars and of the duration prescribed, of such bill of sale, mortgage, charge, lien, or other encumbrance, or claim of ownership;

(ii) To recover any part of the amount found due on the taking of the account, which has already been paid to other persons at the time of the receipt by the Board of the notice.

(2) Notification of encumbrances to Board. (a) Every producer or wholesale vendor who is required by this Division of this Part of this Act to deliver milk vested in a Milk Board to that Board, which milk is subject to any bill of sale, mortgage, charge, lien, or other encumbrance referred to in subsection one of this section, or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof, shall give, prior to the making of the delivery, notice in writing in the form and containing the particulars prescribed of every such bill of sale, mortgage, charge, lien, other encumbrance, or contract.

(b) Any producer or wholesale vendor who knowingly fails to comply with the provisions of this subsection shall be guilty of an offence against this Act.

(3) Non-liability of Board for payments in good faith, etc. (a) Where a Board in good faith and without negligence has made any payment—

(i) To a producer or wholesale vendor delivering or causing to be delivered in pursuance of this Division of this Part of this Act any milk to the Board or any person acting under its authority; or

(ii) To any person entitled or claiming to be entitled through such producer or wholesale vendor; or

(iii) To any person on the order of such producer or wholesale vendor or person referred to in subparagraph (ii) of this paragraph,

the Board shall not be answerable to any other person in respect of such payment for the milk or any part thereof, or in any action, suit, claim, or demand whatsoever for damages or otherwise.

(b) Protection of Board. If prior to receiving notice of claim to any payment or to the chose in action or any part thereof the subject-matter of a payment the Board has in good faith and without negligence adjusted and settled with the producer or wholesale vendor or with any person who has made a claim in accordance with the provisions of paragraph (b) of subsection one of this section for the money payable thereunder, the Board shall not incur any liability to the true owner of such chose in action or any part thereof or to any party claiming through, under, or in trust for him:

Provided that the Board shall not be entitled to the protection of this subsection in respect of any moneys remaining in its hands at the time of receipt by it of notice of such claim or thereafter coming to its hands in respect of a chose in action the subject-matter of such a claim.
(c) This section shall not in any way prejudice or affect any rights between or among themselves of any parties claiming adversely to one another to be entitled whether at law or in equity to the chose in action the subject-matter or part of the subject-matter of any claim for payment.

(d) Subject to the provisions of paragraph (b) of this subsection the Board may plead those provisions in absolute bar of any proceeding (whether at law or in equity) by any such producer, wholesale vendor, transferee, or party as aforesaid in respect of such chose in action or any part thereof.

As to definitions, see s. 5.

PART V—FINANCIAL PROVISIONS

43. Funds and accounts. Every Milk Board shall establish such funds and accounts as are approved by the Minister.

44. Loans, etc. (1) A Milk Board may in manner approved by the Governor in Council make arrangements for an advance of such moneys or loans by any approved financial institution as may be deemed necessary upon such terms and conditions of repayment and payment of interest as may be agreed upon; and for the purposes of this Act the Board shall be deemed to be a "local body" for all purposes under and pursuant to the provisions of "The Local Bodies' Loans Guarantee Acts, 1923 to 1936," and the provisions of such lastmentioned Acts shall extend and apply accordingly.

(2) There shall be paid to the credit of the funds of a Milk Board all moneys collected, received, or recovered by the Board in pursuance of this Act.

(3) (a) The funds of a Milk Board may be operated upon by the Board for the purposes of exercising and discharging its functions, powers, authorities, and duties conferred or imposed upon it by this or any other Act.

(b) All costs and expenses incurred by a Milk Board in the administration of this Act, including the allowances and fees of the chairman and all other members of the Board and the deputy for the chairman of that Board, the salaries, wages, and remuneration of officers and employees of the Board, and all expenses arising out of the conduct of any election under this Act of persons for appointment as members of such Board, shall be paid out of the funds of the Board.

Act referred to:

45. Report. (1) Every Milk Board shall in every year and, if prescribed, not later than the time prescribed for this purpose, prepare a report to the Minister of its operations and such statements of account as correctly reveal the transactions, accounts, and position of the Board's finances.

(2) The statements of accounts so prepared shall be audited and reported upon by the Auditor-General, who shall have, in respect to the accounts of the Board, all the powers conferred on the Auditor-General by any law for the time being in force relating to the audit of the public accounts as well as all powers conferred by this Act.
(3) The Auditor-General shall report to the Board and the Minister—
   (a) Whether or not in his opinion—
      (i) Due diligence and care have been shown in the collection and banking of income;
      (ii) The expenditure incurred had been duly authorised, vouched, and supervised; and
      (iii) Any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and
   (b) As to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(4) Every Milk Board shall in each year, and, if prescribed, not later than the time prescribed for this purpose pay to the Crown such sum as is fixed by the Auditor-General in respect of the services of the officers of the Auditor-General engaged in the audit of the accounts of the Board.

(5) The report of a Milk Board and the report of the Auditor-General as aforesaid shall be laid on the table of the Legislative Assembly forthwith if Parliament is in session; or if not in session, within fourteen days after the commencement of the next session.

46. Power of Board to make and levy assessments. (1) The Milk Board for a Milk District may from time to time make and levy such assessment as is for the time being determined by the Governor in Council on milk or cream or on milk and cream supplied for use within the District.

   Assessments made and levied on milk may differ from assessments made and levied on cream.

   (2) Upon the making of an assessment by a Milk Board, every wholesale vendor shall pay to that Milk Board the amount of such assessment upon the actual number of gallons of milk or, according to the article on which the assessment is made and levied, cream for use in that Board's District received by him during each and every calendar month, and the amount thereof payable for each month shall be remitted by the wholesale vendor to the Board within fifteen days after the last day of that month:

   Provided that any wholesale vendor not carrying on business within that Milk District shall, to the extent of all such milk or cream supplied by him to a wholesale vendor carrying on business within such Milk District, be exempt from the requirements of this subsection, but the wholesale vendor carrying on business within the Milk District shall pay and remit the amount of the assessment on that milk or cream in accordance with this subsection.

   (3) Every wholesale vendor carrying on business within the District may deduct from the moneys payable by him to a producer or to any other wholesale vendor for milk or cream subject to an assessment delivered to him by such producer or wholesale vendor during such month one-half of the amount of the assessment payable to the Board by him with respect to such milk or cream.
(4) Every producer who supplies milk or cream subject to an assessment for use within the District to any person other than a wholesale vendor, including a Board, shall pay to the Board for that District the amount of such assessment upon the actual number of gallons of milk or, as the case may be, cream so supplied by him during each and every calendar month, and the amount thereof payable for any month shall be remitted by the producer to the Board within fifteen days after the last day of such month.

(5) The amount of the assessment unpaid to a Milk Board by a wholesale vendor or producer shall constitute a debt due and owing by him to the Board, and the Board may recover the same from him by action in any court of competent jurisdiction.

(6) When a Milk Board makes an assessment under this section a notice of the making thereof shall be published in the Gazette, and thereupon such assessment shall be deemed to be duly made and levied and shall be payable as hereinbefore prescribed and, if not so paid, recoverable.

(7) The assessment shall be due and payable as and from the date of the publication of the notice thereof in the Gazette unless such notice prescribes some other date, in which event the same shall become due and payable on and from the notified date:

Provided that the Board with the approval of the Governor in Council may by a like notice vary or otherwise alter the amount of the assessment at any time and from time to time.

PART VI—SUPPLY OF PASTEURISED MILK AND CREAM WITHIN PRESCRIBED AREAS

47. Application of Part. This Part of this Act shall not extend or apply or have any force or effect with respect to the Brisbane Milk District.

Brisbane Milk District—See s. 5.

48. (1) Meaning of terms in Part. In this Part of this Act the term "Pasteurised milk" and "Pasteurised cream" shall, unless otherwise prescribed, have the meanings for the time being assigned to those terms respectively by "The Milk Sellers Regulations of 1946" or any regulation amending or in substitution of the same.

(2) Power of Governor in Council to authorise establishment of pasteurisation plants, etc. Subject to the provisions of this section, the Governor in Council may from time to time by Order in Council authorise any person to establish and carry on a pasteurisation plant for the treatment of milk and cream and to supply pasteurised milk and cream within any area or areas specified in that Order in Council for such period as may be set out in the Order in Council.

Such an authority may relate to a pasteurisation plant situated outside any area or areas specified in any Order in Council conferring the same.

(3) Application for Order in Council. An application for an Order in Council under this section shall be made to the chairman of the Brisbane Milk Board and shall be accompanied by the prescribed fees and by a description of the boundaries of the area or areas with respect to which the application is made, an estimate of the potential demand for supplies of pasteurised milk and cream within such area or areas, and a statement of the period for which the Order in Council is applied for.
(4) Preliminary investigation. The chairman shall as soon as possible convene a tribunal consisting of himself as chairman, the Director of Dairying, and a medical officer of the Department of Health and Home Affairs nominated by the Secretary for Health and Home Affairs, for the purpose of making a preliminary investigation as to whether or not the establishment and carrying on of a pasteurisation plant for the supply of pasteurised milk and cream in the area or areas mentioned in the application is economically justifiable.

If upon such investigation the tribunal is of opinion that the establishment and carrying on of a pasteurisation plant for the supply of pasteurised milk and cream in the area or areas mentioned in the application, or any area or areas determined by the tribunal and thereupon substituted by the applicant for the area or areas mentioned in the application, is economically justifiable, then the tribunal shall fix tentative terms and conditions upon and subject to which it would be prepared to recommend the grant of an Order in Council under this section.

(5) If upon a preliminary investigation of an application for an Order in Council under this section the tribunal fixes tentative terms and conditions as referred to in subsection four of this section the chairman shall cause to be advertised once in the Gazette and three times at intervals of not less than one week in some newspaper circulating in the area or areas, as the case may be, with respect to which it is proposed to recommend the grant of an Order in Council under this section a notice calling for further applications for such Order in Council and requiring any objections to the grant of that Order in Council to be made, or as the case may be, lodged in the prescribed manner on or before a date thereby specified.

Such notice shall state briefly the terms and conditions tentatively fixed by the tribunal under subsection four of this section, and shall require each further applicant to furnish with his application the prescribed fees and the like information as is required to be furnished with an application mentioned in subsection three of this section as well as sketch plans drawn to scale showing the pasteurisation plant which he proposes to establish and an estimate of the capital cost of such plant.

The provisions of subsection three of this section shall apply with respect to every further application.

Furthermore on or before the date specified as aforesaid the original applicant shall also lodge with the chairman of the Brisbane Milk Board sketch plans drawn to scale showing the pasteurisation plant he proposes to establish and an estimate of the capital cost of such plant.

(6) The notice referred to in subsection five of this section shall also set forth a date, time, and place when and where the tribunal will sit to investigate all applications made and all objections lodged, pursuant to that notice, for, or as the case may be, against the grant of an Order in Council under this section:

Provided that the original application shall be deemed to be an application so made and shall be again investigated with any later applications at such sitting.

(7) After investigating all applications for and objections against the grant of an Order in Council under this section, the tribunal may recommend the grant or the refusal, as the tribunal determines, of an Order in Council under this section, and if recommending the grant of
that Order in Council, then where there is more than one application therefor, including the original application, the tribunal may also recommend such grant to such one or more of the applicants as, upon consideration of all such circumstances as to it shall seem relevant, including the matters set forth in subsection eight of this section, it shall deem the most advantageous.

A recommendation of the grant of an Order in Council shall set forth the area or areas recommended to be subject to that Order in Council and the terms and conditions upon and subject to which the Order in Council shall be granted, and every such term or condition shall be included in and form part of the Order in Council when granted.

(8) In investigating applications for an Order in Council under this section with respect to an area or areas the tribunal shall have regard to—

(i) The health and well-being of the public generally in such area or areas;

(ii) The price to be paid by an applicant or applicants for milk and cream supplied by producers;

(iii) The price to be charged by an applicant or applicants for pasteurised milk and cream supplied to consumers or users;

(iv) Whether or not the financial position of any applicant is such that he will be able, if granted an Order in Council under this section, properly to establish and carry on his proposed pasteurisation plant and to supply the demand for pasteurised milk and cream in the area or areas included in such Order in Council;

(v) Whether or not the pasteurisation plant proposed to be established by an applicant is reasonably suitable and adequate to supply the potential demand for pasteurised milk and cream in the area or areas to which the application relates;

(vi) The amount and nature of the security to be furnished by the successful applicant in order to ensure the due compliance by him with the Order in Council.

(9) Any investigation authorised to be made by the tribunal under and for the purposes of this section shall be made by it in open court and, moreover, the tribunal shall announce every finding or decision made by it upon any such investigation in open court.

Every applicant and objector shall be entitled to appear before the tribunal and to be heard either in person or by his counsel, solicitor, or agent.

The tribunal may adjourn an investigation from time to time and from place to place.

For the purposes of any investigation authorised to be made by it under this section, the tribunal shall have and may exercise all the powers, authorities, jurisdiction, and protection of a commission under and within the meaning of "The Commissions of Inquiry Act of 1950."

(10) The Governor in Council may adopt or refuse to adopt a recommendation made by the tribunal for the grant of an Order in Council under this section:
Provided that if the Governor in Council adopts such recommendation the Order in Council shall be made subject to all such terms and conditions as have been recommended by the tribunal, and each such term or condition shall be included in and form part of such Order in Council.

(11) The chairman shall have authority from time to time to invite by any means he deems fit applications for an Order in Council under this section in respect of any area or areas within which he may then consider the establishment and carrying on of a pasteurisation plant for the supply of pasteurised milk and cream is economically justifiable.

The tribunal without any preliminary investigation may fix tentative terms and conditions as referred to in subsection four of this section upon any application made as a result of any such invitation.

(12) If any person contravenes or fails to comply with any term or condition prescribed by an Order in Council granted to him under this section he shall be guilty of an offence against this Act.

Any Order in Council under this section may with respect to any terms or conditions thereby prescribed also prescribe the penalty or penalties to which the person to whom the Order in Council is granted shall be liable upon a contravention thereof or failure to comply therewith, and such penalty or penalties may differ from any penalty otherwise prescribed.

(13) While any Order in Council made under this Part of this Act (or made under the provisions corresponding to this Part of "The Milk Supply Act of 1938") is in force, the person to whom that Order in Council is granted may make application to the chairman of the Brisbane Milk Board for the amendment, alteration, variation or modification otherwise thereof.

For the purposes of this subsection the provisions of subsections five, six, seven, eight, nine, and ten of this section shall, with all necessary adaptations thereof, apply accordingly.

The Governor in Council may make the amendment, alteration, variation or modification otherwise of the Order in Council by a further Order in Council or by substituting a fresh Order in Council for the existing Order in Council.

As amended by Act of 1961, 10 Eliz. 2 No. 19, s. 10 (1).

Acts referred to:
Milk Supply Act of 1938, repealed.

49. Offence. Any person who at any time when an Order in Council made under this Part of this Act (or made under the provisions corresponding to this Part of "The Milk Supply Act of 1938") is in force—

(i) Establishes or carries on a pasteurisation plant; or
(ii) Supplies, whether by wholesale or retail, any pasteurised milk or pasteurised cream for use or intended for use, within any area specified in that Order in Council shall, unless he is so authorised by any such Order in Council in force, be guilty of an offence against this Act.
A person convicted for the offence of establishing or carrying on a pasteurisation plant contrary to the provisions of this section who continues to carry on that pasteurisation plant shall be deemed to commit a continuing offence and shall be liable to a penalty of not more than twenty dollars for each and every day during which the offence is continued.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:
Milk Supply Act of 1938, repealed.

50. Appropriation of fees. All fees collected under this Part of this Act may be appropriated for the purpose of meeting the costs and expenses incurred in the administration of this Part.

PART VII—Miscellaneous

51. Condition of diversion of supply by producer or wholesale vendor. (1) A producer or wholesale vendor shall not divert his supply or portion of his supply of milk or cream from any wholesale vendor holding a wholesale vendor's certificate of registration under and for the purposes of Division I of Part IV of this Act to any other wholesale vendor whether or not holding such a certificate of registration unless he shall have first given to the wholesale vendor from whom his supply or portion of his supply of milk or cream is being diverted, where the supplier is a producer at least fourteen days' notice, and where the supplier is a wholesale vendor at least twenty-eight days' notice, on the form prescribed of his intention to so divert his supply of milk or cream, or portion thereof, as the case may be.

(2) A producer or wholesale vendor supplying milk to a wholesale vendor holding a wholesale vendor's certificate of registration under and for the purposes of Division I of Part IV of this Act shall not divert the cream obtainable from his milk supply or any portion thereof to another wholesale vendor whether or not holding such a certificate of registration unless he shall have first given to the wholesale vendor to whom he was supplying milk, where the supplier is a producer at least fourteen days' notice, and where the supplier is a wholesale vendor at least twenty-eight days' notice, on the prescribed form of his intention to so divert the cream obtainable from his milk supply or any portion thereof, as the case may be.

(3) No producer or wholesale vendor shall be guilty of an offence against this section if he satisfies the court that the diversion of his supply or portion of his supply was owing to stress of weather or other circumstances beyond his control.

(4) No wholesale vendor shall accept delivery of any milk or cream, or of any cream obtained from any milk, the supply of which has been diverted from another wholesale vendor contrary to this section.


52. Payment to producers for milk and cream supplied. (1) Notwithstanding any enactment, law, contract, or arrangement to the contrary, every wholesale vendor or retail vendor who under a contract is supplied during any calendar month by a producer with milk or cream, shall, before the expiration of fifteen days after the close of that month, pay according to law for all milk and cream supplied to him by the producer during that calendar month.
(2) (a) Before the expiration of twenty-one days after the close of each and every calendar month every wholesale vendor acting as or carrying on business as such within a Milk District and every wholesale vendor acting as or carrying on business as such without a Milk District and supplying or selling any milk or cream or milk and cream for use within a Milk District shall furnish to the Milk Board for that Milk District a certificate, given by a person registered as a public accountant under "The Public Accountants Registration Acts, 1946 to 1949," certifying that, to the best of his knowledge and belief and according to the books, accounts, and statements produced and information supplied to him by that wholesale vendor, the wholesale vendor has complied with the provisions of subsection one of this section in respect of that calendar month.

(b) The provisions of this subsection shall not prejudice or otherwise affect the provisions of subsection one of this section.

(3) Price of milk and cream. Where the minimum price which may be paid by a wholesale vendor for any milk or cream supplied to him by a producer or another wholesale vendor is fixed and declared by order under sections 17L or 17N of this Act, such firstmentioned wholesale vendor shall pay to such producer or other wholesale vendor for such milk or cream a price not less than the minimum price so fixed and declared.

(4) Where the maximum price at which any milk or cream sold by a wholesale vendor or by a person who sells by retail may be sold by him is fixed and declared by order under sections 17L or 17N of this Act, such vendor shall not sell such milk or cream at a price in excess of such maximum price.

As amended by Act of 1961, 10 Eliz. 2 No. 19, s. 11.

Act referred to:


53. Offence to falsely represent grade of milk or cream. (1) Any person who falsely represents that any milk or cream supplied by him is of a particular class or grade fixed by a Milk Board shall be guilty of an offence against this Act.

(2) For the purposes of subsection one of this section but without limiting the meaning of the word "represents" in that subsection, a person shall be deemed to represent that any milk or cream is of a particular class or, as the case may be, grade fixed by a Milk Board if—

(i) He makes any verbal or written representation calculated or likely to lead to the belief that the milk or cream concerned is of such particular class or grade; or

(ii) He has or allows to remain upon, about, or adjacent to the premises or upon or attached to the vehicle from which such milk or cream is supplied any painted or written words, sign, notice, board, or placard whatsoever calculated or likely to lead to the belief that milk or cream supplied by him is of such particular class or grade.

Offences, evidence—See ss. 57, 58.
54. Unlawful payment to member of Milk Board. (1) Any person who, being a member of a Milk Board or holder of any office or employment under this Act, without lawful authority demands or receives from any person any payment, gratuity, or present in consideration of doing or of omitting to do any act or thing pertaining to his office or employment shall be guilty of an offence against this Act.

(2) Any person who without lawful authority offers, makes, or gives to any member of a Milk Board or the holder of any office or employment under this Act any payment, gratuity, or present in consideration that such member or holder of office or employment will do or omit to do some act or thing pertaining to his office or employment shall be guilty of an offence against this Act.

55. Certificates and licenses. (1) Without limiting or otherwise affecting any other provisions of this Act, a Milk Board may refuse to grant or to renew, assign, or transfer any certificate of registration or license under this Act, or may suspend for such period as it thinks fit or cancel any certificate of registration or license granted by it under this Act if the applicant, or the proposed assignee or transferee, or the holder of the certificate or license—

(i) Is, in the opinion of the Board, guilty of an offence against this Act or has been convicted of an offence in relation to the supply, keeping, sale, or distribution of milk or cream, against “The Health Acts, 1937 to 1949,” or any other Act, including any regulations thereunder; or

(ii) Is, in the opinion of the Board, not a fit and proper person to hold such certificate or license; or

(iii) In an appropriate case, has been refused a license under “The Health Acts, 1937 to 1949,” including any regulations thereunder to sell milk; or

(iv) Has, in the opinion of the Board, unsuitable premises, vehicle, plant, or equipment for the purposes of that certificate or license; or

(v) Being the holder of a certificate of registration, supplies or sells, in the opinion of the Board, milk or cream of a class or grade other than that which he is authorised by that certificate to supply or, as the case may be, sell, or if, in the opinion of the Board, the business carried on or proposed to be carried on by the applicant, or the proposed assignee or transferee, or the holder of the certificate or license is an unnecessary agency.

(2) Cancellation. Upon the cancellation of any certificate of registration or license under this Act, that certificate or, as the case may be, license shall be deemed to be no longer in force as if the period for which it was granted had then expired.

(3) Effect of suspension. Suspension under this Act of any certificate of registration or license—

(i) Shall, whilst such certificate or license is so suspended, have the same effect as the cancellation thereof; and

(ii) Shall not, upon the termination of that suspension, extend the period during which that certificate or, as the case may be, license remains then in force, if remaining in force thereafter, beyond the period during which it would have remained in force if it had not been suspended.
(4) **Conditions.** The holder of any certificate, license, or other authority granted under this Act who fails to comply with any provision, condition, or restriction subject to which that certificate, license, or, as the case may be, other authority is granted shall be guilty of an offence against this Act.

(5) **Return of licenses, etc., suspended or cancelled.** When under this Act a certificate of registration, license, or other authority is suspended or cancelled, then the person to whom that certificate, license, or other authority was granted shall, if requested by the Board which granted the same or by any officer of that Board, deliver forthwith to that Board or, as the case may be, officer, that suspended, or cancelled certificate, license, or other authority.

If default in delivering any such certificate, license, or other authority is continued by any person who has been convicted of the offence of failing to deliver that certificate, license, or other authority, then that person shall be deemed to commit a continuing offence and shall be liable to a penalty of not more than ten dollars for each and every day during which that offence is continued:

Provided that the continuing offence in respect of such non-delivery shall not be deemed to commence until the expiration of fourteen days from the date of conviction as aforementioned.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:

- Offences, evidence—See ss. 57, 58.

56. **Standardized milk.** A person shall not supply or sell for human consumption milk which is standardized unless the supply or sale of that standardized milk is permitted by the Governor in Council.

The provisions of this section shall be in force throughout Queensland and to the extent necessary to give effect to the provisions of this section every other provision of this Act shall be read subject to this section.

Offences, evidence—See ss. 57, 58.

57. **Offences.** (1) (a) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(b) Every person who aids, abets, counsels, or procures, or is in any way knowingly concerned in the commission of an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

(2) Where by this Act any authority is given to any person to direct anything to be done or to forbid anything to be done and anything so directed to be done is not done or anything so forbidden to be done is done, every person who offends against any such direction or prohibition shall be guilty of an offence against this Act.

(3) **General penalty.** Any person guilty of an offence against any provision of this Act shall be liable, if no specific penalty is provided for that offence, to a penalty not exceeding two hundred dollars.

(4) **Summary proceedings.** All offences against this Act may be prosecuted in a summary way under “The Justices Acts, 1886 to 1949.”
(5) **Time for commencement of prosecutions.** A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within twelve months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

(6) **Body corporate.** When a body corporate commits an offence against this Act the managing director, manager, or other governing officer, by whatever name called, of such body corporate shall also be deemed to commit such offence, and proceedings may be taken either against the body corporate or against that managing director, manager, or other governing officer, and if proceedings are taken against the managing director, manager, or other governing officer, he shall upon conviction for that offence, be liable to the penalty prescribed for the offence.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:


58. **Evidence, etc.** (1) In any proceedings under or for a purpose of this Act—

(i) It shall not be necessary to prove the appointment or signature of the chairman, any other member, secretary, or any other officer of a Milk Board, or the authority of any such person to do any act;

(ii) A document purporting to be a copy of or an extract from any consent, determination, requirement, direction, prohibition, order, register, book, certificate, license, notice, list, declaration, statement, document, or writing of any nature whatsoever, in the custody of or given, made, issued, or granted under this Act by a Milk Board or any member thereof or of or by any officer of a Board and endorsed with a certificate purporting to be under the hand of the chairman or secretary of the Board that such document is a true and correct copy of or extract from, as the case may be, the case may be, that consent, determination, requirement, direction, prohibition, order, register, book, certificate, license, notice, list, declaration, statement, document, or writing, as the case may be, shall upon its production in evidence be evidence of the matters contained and certified to therein and in the absence of evidence in rebuttal, shall be conclusive evidence of such matters;

(iii) A certificate purporting to be under the hand of the chairman or secretary of the Milk Board for a Milk District that any person named therein is or is not the holder of any specified certificate of registration or license (or at a time specified was or, as the case may be, was not the holder of any specified certificate of registration or license) in relation to that Milk District under any provision of this Act, shall, upon its production in evidence, be evidence of the fact certified, and in the absence of evidence in rebuttal, shall be conclusive evidence of that fact;
(iv) The allegation in any complaint that any milk or cream was supplied for use or intended for use for any purpose specified in the complaint, or was supplied for use or intended for use in any District, part of a District, or other area specified in the complaint, shall be prima facie evidence of the matter so alleged;

(v) Every entry in any minute book of a Milk Board purporting to be an entry relating to the proceedings of the Board, and to be signed by the chairman of the Board, and every certified copy of or extract from any such entry signed by the chairman, shall upon its production in evidence, be evidence of the proceedings appearing by such entry (without proof of any meeting to which the same may refer or by which the same were made having been duly convened or held or that such proceedings were carried out or made in accordance with the prescribed provisions in that behalf), and that the signature thereon is the signature of the chairman, and in the absence of evidence in rebuttal, shall be conclusive evidence of such proceedings and signature.

(2) Judicial notice shall be taken of every consent, determination, notification, requirement, direction, prohibition, or order or other act of authority under this Act published in the Gazette.

59. Information. (1) Any information, complaint, or other legal proceeding under this Act laid, made, or taken by a Milk Board may be laid, made, or as the case may be, taken in the name of that Board by the secretary or by any other officer authorised by that Board in that behalf either generally or in the particular case.

(2) In any proceedings the production of a notification in writing under the hand of the chairman or secretary of the Board to the effect that any person has been so authorised shall be conclusive evidence of authority and evidence that this authority to act remains in force.

60. Protection of Crown, etc. No action, claim, or demand whatsoever shall lie, or be made or allowed by or in favour of any person whatsoever against Her Majesty, or the Minister, the Under Secretary of the Department of Agriculture and Stock of the Government of this State, any person acting with the authority of the Minister or that Under Secretary, or (save as in this Act provided) a Board or any person acting or purporting to act in the execution of the provisions of this Act for or in respect of any damage or loss or injury sustained or alleged to be sustained by reason of the passing or commencement of this Act (or the making of any Proclamation, Order in Council, or regulation hereunder) or of its operation, or of anything done or purporting to be done in good faith under this Act (including under any such Proclamation, Order in Council, or Regulation).

61. Minister may call for reports, etc. The Minister at any time and from time to time may call upon a Milk Board by notice in writing under his hand or under the hand of the Under Secretary of the Department of Agriculture and Stock of the Government of this State, addressed to the chairman or secretary of the Board, for the furnishing of a report generally on or to supply any information therein required in relation to the finances of the Board, or any matter or thing in relation to revenue or expenditure,
or any matter or thing concerning the administration (including any determination) or any practice of the Board. The chairman or secretary, according to whom the notice is addressed, shall furnish or supply to the Minister or, as the case may be, to the Under Secretary as aforesaid a full, true, and complete report or information desired by him.

The provisions of this section shall take effect whether any examination or audit of the books and accounts of the Board has been made or not.

62. Orders, directions, etc. (1) Any requirement, direction, prohibition, determination, order, or notice made, given, or issued by a Board or by the chairman of a Board under this Act may—

(i) Be made, given, or issued so as to apply to—

(A) Any one or more persons specified therein, or to all or any persons included in any class of persons so specified, or, in appropriate cases, to persons generally; or

(B) Any milk or cream specified therein, or all or any milk or cream included in any class, grade, or description of milk or, as the case may be, cream, so specified, or to milk or cream generally; or

(C) Any premises or vehicles specified therein, or to all or any premises or vehicles included in any class of premises or vehicles so specified, or to premises or vehicles generally; or

(ii) Be made, given, or issued so as to apply generally, or to or in any areas, whether within or without the Milk District, specified therein; or

(iii) Make different provisions with respect to different qualities, classes, grades, or descriptions of milk or cream or in respect of different purposes for which any milk or cream is intended for use; or

(iv) Exempt—

(A) Any persons, or all or any persons included in any class of persons; or

(B) Any milk or cream, or all or any milk or cream included in any class, grade, or description of milk or cream; or

(C) Any premises or vehicle, or all or any premises or vehicles included in any class of premises or vehicles; or

(D) Any areas (whether within or without the Milk District), from the operation of all or any of the provisions thereof; or

(v) Contain such incidental or supplementary provisions as are considered necessary or desirable for the purposes thereof, or do any of these things.

(2) Unless otherwise prescribed, any requirement, direction, prohibition, determination, order, or notice made, given, or issued by a Board or by the chairman of a Board under this Act may be published in the Gazette or advertised in a newspaper, or may be made or given in writing to any person concerned.
(3) Any requirement, direction, prohibition, determination, order, or notice made, given, or issued by a Board or by the chairman of a Board under this Act shall be sufficiently authenticated if signed on behalf of the Board by the chairman, or by the secretary thereof, (or if made, given, or issued by the chairman, by the chairman or secretary on behalf of the chairman).

(4) Service of notice, etc. Any requirement, direction, prohibition, determination, order, notice, or other document under this Act required or authorised to be made, given, issued, or served to or upon any person by a Milk Board or by the chairman of a Milk Board or by any officer on behalf of a Milk Board may be made, given, issued, or served—

(i) By delivering the same to such person personally; or

(ii) By leaving the same at or by forwarding the same by post in a prepaid letter addressed to such person at his usual or lastknown place of abode or address or, in the case of a requirement, direction, prohibition, determination, order, notice, or other document given, made, or served on a person who is registered or licensed under and for the purposes of any provisions of this Act, by leaving the same at or by forwarding the same by post in a prepaid letter addressed to such person at his place of business in Queensland as so registered or licensed.

In the case of a requirement, direction, prohibition, determination, order, notice, or other document made, given, issued, or served by forwarding the same by post in a prepaid letter under paragraph (ii) of this subsection, such requirement, direction, prohibition, determination, order, notice, or other document shall unless the contrary is proved be deemed to have been made, given, issued, or served at the time at which the letter would be delivered in the ordinary course of post.

63. Power of the Governor in Council to exempt from Act, etc. (1) The Governor in Council may at any time and from time to time by Order in Council or by the regulations declare that all or any of the provisions of this Act with respect to milk or cream or milk and cream shall not apply (either generally or in relation to any Milk District specified) with respect to any milk or cream or milk and cream specified, either generally or when supplied or sold by any specified class of producers, wholesale vendors, retail vendors, or other persons, or in any specified circumstances or quantities or for use for any specified purposes or for use within any District or other area, or part of any District or other area, specified, and, notwithstanding anything to the contrary contained in this Act, effect shall be given to every such declaration while that declaration remains in force accordingly.

(2) Without limiting or otherwise affecting the provisions of subsection one of this section, the Governor in Council may at any time and from time to time by Order in Council or by the regulations declare that any of the provisions of this Act with respect to producers, wholesale vendors, retail vendors, or carriers shall apply (in relation to any Milk District specified) only to a specified class or classes of producers, wholesale vendors, retail vendors or, as the case may be, carriers, and while any such declaration remains in force, such provisions shall, notwithstanding anything to the contrary contained in this Act, apply only with respect to producers, wholesale vendors, retail vendors or, as the case may be, carriers of the class or classes specified by that declaration.
(3) For the purposes of all or any of the provisions of this Act the Governor in Council may from time to time by Order in Council or the regulations—

(i) Prescribe all such definitions as he deems necessary or desirable of terms used in such provisions including the definition of the terms producer, retail vendor, and wholesale vendor;

(ii) Prescribe and define any classes of producers, wholesale vendors, retail vendors, carriers, other persons, premises, vehicles, milk, or cream, according to place, circumstances, purposes, or otherwise howsoever.

64. Regulations. (1) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, as may be necessary or convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act, and without limiting the generality of the foregoing provisions of this subsection providing for all or any of the following purposes, matters, and things—

(i) Prescribing all matters or things which by this Act are required or permitted to be prescribed;

(ii) Prescribing all or any matters and things considered necessary or desirable for and in relation to the fixing under the authority of this Act by a Milk Board of the classes, grades, and description of milk and cream;

(iii) Requiring any prescribed milk or cream (including any milk or cream of any prescribed class or grade or for any prescribed purposes) to be sold in prescribed containers labelled or sealed or labelled and sealed as prescribed;

(iv) Requiring and prescribing books and records to be kept and returns to be made by producers, wholesale vendors, retail vendors, and carriers of milk or cream, or any of these, and prescribing the manner of keeping all or any prescribed books or records or of making all or any such returns (including, in such lastmentioned case, when and where or to whom such returns are to be made) and requiring that the books and records and returns prescribed shall be properly kept or, as the case may be, made, and empowering prescribed persons to inspect, examine, and audit and take copies of and extracts from all or any books, accounts, documents, and records, whether prescribed or not, in the possession of any other person on behalf of or kept by any producer, wholesale vendor, retail vendor, or carrier of milk or cream;

(v) Prescribing methods to be followed in the collection, treatment, carriage, deposit, storage, delivery, supply, sale, and distribution of milk and cream;

(vi) Prescribing the maximum temperatures at which milk or cream is to be kept at any and every stage from its production to its delivery to a purchaser for use;

(vii) Prescribing methods of dealing with milk or cream which does not comply with this Act;
(viii) Providing for the inspection of premises, vehicles, plant, equipment, milk, and cream, and providing for the appoint­ment of officers for that purpose, and prescribing the powers of such officers in this regard, including their power to order the cleansing and disinfection of any places or things as aforesaid;

(ix) Prescribing in any cases the methods of giving, serving, making known, or publishing requirements, directions, determinations, orders, notices, or other acts of authority, whether by a Board, the chairman or any other member or the secretary or any other officer of a Board, or any other person as prescribed;

(x) Prescribing all or any matters and things considered necessary or desirable in relation to any premises, persons, or matters in any case where by this Act a Board, the chairman or any other member or the secretary or any other officer of a Board, or any other person is authorised or permitted to require, prohibit, regulate, control, determine, appoint, inspect, examine, register, prohibit, or specify;

(xi) Prescribing all or any matters and things with respect to the examination and analysis of any milk or cream under or for the purposes of this Act, including the taking of samples of milk or cream for examination, analyses, or other purposes under or for the purposes of this Act and the procedure to be adopted in relation thereto;

(xii) Prescribing, regulating, and controlling the functions, powers, authorities, and duties of a Board, the chairman or any other member or the secretary or any other officer or any employee of a Board, or any other person; prescribing offences and penalties with respect to the obstruction of any such person in the course of his duty and with respect to a failure to comply with any requirement, direction, prohibition, determination, or order pursuant to this Act of a Board or any such person; regulating and controlling the meetings of a Board (including the time and place of meetings thereof and the business and proceedings thereof);

(xiii) Prescribing fees payable under this Act and the matters in respect of which such fees shall be paid and prescribing the persons by whom and the places and times when and where such fees shall be paid;

(xiv) The application of moneys paid to Her Majesty upon forfeiture of fidelity bonds lodged or sums of money deposited pursuant to this Act;

(xv) Prohibiting the use by any wholesale vendor or retail vendor in connection with his business as such of any advertisement, description, sign, notice, device, or representation in the nature of an advertisement, which does not correctly describe or represent the milk and cream sold, including the class and grade thereof fixed under this Act by a Milk Board, or the services offered by such vendor;
(xvi) Prescribing all or any matters and things considered necessary or desirable for the permitting by the Governor in Council of the supply or sale for human consumption of milk which is standardized, including, but without limiting the generality thereof, the delegating to Milk Boards and any specified persons or any of them, if considered necessary or desirable, of that power with respect to any milk specified or classes of milk sellers specified:

(xvii) Generally for carrying this Act into effect.

(2) The power to make with respect to any milk or cream, or any matter or thing whatsoever, or any producer, wholesale vendor, or retail vendor or any other person whomsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited application according to individuals, classes of persons, class, article, time, place, purposes, standard of quality, grade or description, or circumstances, or otherwise as is prescribed.

The power to make regulations with respect to any matter shall include power to make regulations under this section prohibiting that matter either generally or to meet particular cases.

The power to make regulations under this Act shall include power to repeal, amend, or otherwise modify any regulation in force at the commencement of this Act and continued in force by virtue of any provision of this Act.

(3) Regulations may be made under this Act at any time after the passing hereof.
For regulations, see Table of Contents, p. 260. *ante.*

65. Further powers with respect to Orders in Council and regulations.
(1) When under this Act the Governor in Council has power to make any Order in Council or regulation he shall have power to make one or more Orders in Council or, as the case may be, regulations as appears to him necessary or expedient in the circumstances, and either at one and the same time or from time to time.

(2) The Governor in Council may by any Order in Council revoke, amend, or otherwise modify any other Order in Council made, or any Order in Council continued in force under, the authority of this Act.

(3) Proclamations and Orders in Council may be made under this Act at any time after the passing hereof.

(4) No misnomer, inaccurate description, or omission in or from any determination or notification or other act of authority under this Act or in or from any Order in Council or regulation shall in any wise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description or omission provided the same is designated so as to be understood.

66. Publication of Proclamations, Orders in Council, and regulations.
(1) Every Proclamation, Order in Council, and regulation made under this Act shall—
(i) Be published in the Gazette;
(ii) Upon its publication in the Gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
(iii) Take effect from the date of such publication unless, in the
case of any such Order in Council or regulation, a later date
is specified in that or any other Order in Council or, as
the case may be, regulation for its commencement when in
such event it shall take effect from that later date; and
(iv) Be laid before Parliament within fourteen sitting days after
such publication if Parliament is in session, and if not, then
within fourteen sitting days after the commencement of the
next session.

(2) If Parliament passes a resolution of which notice has been
given at any time within fourteen sitting days after any such Proclamation,
Order in Council, or regulation has been laid before Parliament disallowing
such Proclamation, Order in Council, or regulation or part thereof, that
Proclamation, Order in Council, or regulation or part shall thereupon
cease to have effect, but without prejudice to the validity of anything
done in the meantime or to the making of a further Proclamation or
regulation.

(3) In this section the term “sitting days” means days upon which
Parliament actually sits for the despatch of business.

67. (1) Crown not bound. This Act shall not bind the Crown.

(2) Saving of other Acts, etc. Unless otherwise expressly provided,
the provisions of this Act shall be in addition to and not in substitution for
or diminution of the provisions of any other Act, or of any regulations,
ordinances, or by-laws thereunder, and nothing in this Act shall affect or
prevent the doing or exercise of, any powers, authorities, functions, or
jurisdiction conferred or imposed upon any person by any other Act or any
regulations, ordinances, or by-laws thereunder, or prevent the enforcement
and recovery of any penalty, fee, fine, or forfeiture which is enforceable and
recoverable under any other Act or any regulations, ordinances, or by-laws thereunder:

Provided that where any act or omission constitutes the same
offence both under this Act and under any other Act or any regulations,
ordinances, or by-laws thereunder, any person doing or omitting to do
such act may be proceeded against either under this Act or under such
other Act, regulations, ordinances, or by-laws, but so that no person shall
be twice punished for the same offence.