

DAIRY INDUSTRY BILL 1993

EXPLANATORY NOTES

PART 1—PRELIMINARY

Clause 1 Short title.

Clause 2 sets out the principal objectives of the Bill.

Clause 3 sets out the definitions of terms used in the Bill.

Clause 4 provides that the Crown is bound by the Act except where exempted by regulation and that the Authority or any other body constituted under the Act is not representative of the Crown.

PART 2—POLICY AND ADMINISTRATION

Division 1—The Queensland Dairy Industry Policy Council

Clause 5 establishes the Queensland Dairy Industry Policy Council.

Clause 6 sets out the functions of the Council.

Clause 7 provides for composition of the Council.

Clause 8 provides for meetings of the Council.

Clause 9 provides that the Council has a secretariat.

Clause 10 provides for the appointment of committees by the Council.

Division 2—The Queensland Dairy Authority

Clause 11 establishes the Queensland Dairy Authority.

Division 3—Functions and Powers of the Authority

Clause 12 sets out the functions of the Authority.

Clause 13 sets out the general powers of the Authority.

Clause 14 provides for the delegation of powers by the Authority.

Clause 15 provides that the Authority has a duty to consult with the Council on the exercise of powers and functions that raise questions of industry policy.

Clause 16 provides that the Minister may direct the Authority in relation to the performance of its statutory functions and the exercise of its statutory powers.

Division 4—Membership of the Authority

Clause 17 deals with the composition of the Authority.

Clause 18 provides for matters in regard to the selection of members to the Authority.

Clause 19 sets out the terms and conditions of office of members of the Authority.

Clause 20 provides that the Governor in Council may determine fees and allowances for the members of the Authority.

Division 5—Proceedings of the Authority

Clause 21 provides for the time and place of meetings of the Authority and the manner in which meetings may be convened.

Clause 22 sets out the procedures governing transaction of business at meetings.

Clause 23 deals with disclosure of pecuniary interests by members and sets out the procedures to be adopted upon such disclosure.

Clause 24 requires that the Authority keep minutes of its proceedings.

Division 6—Committees

Clause 25 provides for the appointment of committees by the Authority for the purpose of advising on particular subjects.

Division 7—Staff of the Authority

Clause 26 provides for the appointment of staff to the Authority.

Clause 27 sets out the procedure to be followed if the Authority enters into a superannuation scheme.

PART 3—INDUSTRY REGULATION

Division 1—Price Regulation

Clause 28 provides for matters in regard to the fixing of maximum and minimum prices for market milk.

Clause 29 provides for offences for non-compliance with an order made in the previous section.

Division 2—Vesting of Milk

Clause 30 provides for the vesting of milk in the Authority by regulation following the joint recommendation of the Council, the Authority and the Minister.

Clause 31 provides that an order may be made by the Authority concerning delivery of vested milk.

Clause 32 empowers the Authority to sell and dispose of the vested milk and to distribute the proceeds of the sale or disposal.

Clause 33 provides for payment in good faith for the vested milk by the Authority.

Clause 34 prohibits transactions involving vested milk contrary to this division.

Clause 35 provides that Division 2 will expire on 31 December 1998.

Division 3—Authority's Power to Intervene in the Dairy Industry

Clause 36 provides for the Authority to intervene in the market as a processor, distributor or vendor of dairy produce with the approval of the Minister.

Clause 37 provides that Division 3 will expire on 31 December 1998.

Division 4—Licensing

Clause 38 sets out the classes of licences to be issued under the Act.

Clause 39 deals with the procedures for application for and grant of a licence.

Clause 40 provides that licences are to be granted on terms and conditions determined by the Authority.

Clause 41 provides for transactions affecting licences.

Clause 42 provides for the issue of processors' licences and the special trading rights attached to such licences.

Clause 43 provides that the holder of a licence must keep records required to be kept by regulation or by a condition of the licence.

Clause 44 provides for the variation, suspension or cancellation of licences by the Authority.

Clause 45 sets out the offences related to licences.

Clause 46 provides for the expiry of the licensing provisions.

Division 5—Restructuring of Distribution

Clause 47 provides for the establishment by the Authority by order of a scheme for restructuring the distribution of dairy produce by the holders of vendors' licences.

Division 6—Supply Management

Clause 48 provides for the constitution of supply management regions for the purpose of Division 6.

Clause 49 provides for the grant of a market milk entitlement to a producer whose dairy is situated in a supply management region.

Clause 50 provides for transactions affecting entitlement.

Clause 51 provides for diversion of milk supply by entitlement holders.

Clause 52 provides that the Authority is to have a supply management scheme for each supply management region.

Clause 53 sets out the procedure for the annual review of market milk consumption and the basis on which the increase in consumption of market milk which is to be distributed is to be apportioned among processors.

Clause 54 provides for the consequential variations that may be made to entitlements following variation in the processors' access to market milk.

Clause 55 empowers the Authority to vary or cancel an entitlement.

Clause 56 requires that a list of market milk and the quantities of market milk to which each relates be gazetted at the end of the financial year.

PART 4—INDUSTRY STANDARDS

Division 1—Power to Make Standards

Clause 57 provides that the Authority may make standards with respect to specified matters.

Division 2—Standards of Premises, Plant and Equipment

Clause 58 requires that any premises, vehicles, plants, or equipment used for the production, processing or storage of dairy produce for sale, must comply with standards made by the Authority.

Division 3—Standards for Dairy Produce

Clause 59 provides that dairy produce intended for sale for human consumption must comply with the Authority's standards.

Clause 60 prohibits the unlawful adulteration or blending of dairy produce.

Division 4—Testing and Analysis of Dairy Produce

Clause 61 provides for the testing and analysis of dairy produce.

Division 5—Power to Enforce Compliance with Standards

Clause 62 empowers the Authority to enforce standards in regard to any premises, vehicles or equipment used for the production, processing or storage of dairy produce for sale.

Clause 63 empowers an authorised person to require cleaning of any premises, vehicles or equipment used in the production, processing or storage of dairy produce for sale.

Clause 64 empowers an authorised person to condemn dairy produce that is unfit for human consumption or does not comply with the Authority's standards.

Clause 65 empowers an authorised person to segregate a person suffering from infectious disease to prevent transmission of the disease to consumers of dairy produce.

PART 5—GENERAL POWERS OF ENFORCEMENT***Division 1—Administration***

Clause 66 provides for the appointment of authorised persons by the Authority.

Clause 67 provides for the terms and conditions of appointment of authorised persons.

Clause 68 provides that an authorised person has the powers given under

this or another Act and that a regulation may limit the powers of authorised persons of a specified class.

Clause 69 provides for the issue of identity cards to authorised persons.

Clause 70 provides that an authorised person may exercise a power in relation to a person only if the authorised person first produces his or her identity card for inspection by the person.

Clause 71 provides that an authorised person or a person acting under the direction of an authorised person does not incur civil liability for an act or omission done honestly and without negligence for the purposes of this Act.

Division 2—Powers of Authorised Persons

Clause 72 empowers an authorised person to enter and search a place for purposes of monitoring compliance with the Act.

Clause 73 empowers the entry and search of a place by authorised persons on reasonable suspicion that the place contains evidence of offences under the Act.

Clause 74 empowers an authorised person to stop and search vehicles on reasonable suspicion that the vehicle is or has been used to commit an offence under the Act, or that the vehicle or thing in the vehicle may afford evidence of the commission of an offence under the Act.

Clause 75 sets out the general powers of an authorised person in relation to places and vehicles.

Clause 76 empowers an authorised person to require particular persons to furnish a name and address.

Clause 77 empowers an authorised person to require particular persons to answer questions.

Clause 78 empowers an authorised person to require production of licences held under this Act or documents required to be kept under this Act..

Clause 79 requires an authorised person to give notice of seizure or damage

of anything that occurs during the exercise of his or her powers under the Act.

Clause 80 provides that a person may claim compensation from the Authority for any loss or expense incurred in particular circumstances.

Division 3—Warrants

Clause 81 provides for the issue of warrants.

Clause 82 provides for the application for and issue of offence related warrants.

Clause 83 provides that a magistrate may require further information before issuing a warrant.

Clause 84 provides for matters that must be contained in a warrant.

Clause 85 provides that warrants may be issued by various forms of communication.

Division 4—Offences

Clause 86 requires a person who ceases to be an authorised person to return his or her identity card to the Authority and makes a failure to do so an offence.

Clause 87 makes it an offence for a person without reasonable excuse to disobey a signal under section 74(4) to stop or not to move a vehicle.

Clause 88 makes a failure by any person to comply with the requirements under section 74(5) of this Act an offence.

Clause 89 provides that a failure by a person who is required under section 75(1)(e) to give reasonable assistance to an authorised person is an offence.

Clause 90 provides that a person who fails to furnish a name and address as required under section 76 commits an offence.

Clause 91 provides that a person who fails to answer a question made by an

authorised person under section 77 commits an offence.

Clause 92 provides that a person who fails to produce a document as required under section 78 commits an offence.

Clause 93 prohibits a person from knowingly giving an authorised person false or misleading documents.

Clause 94 prohibits a person from knowingly making false or misleading statements or giving false or misleading information.

Clause 95 prohibits the obstruction of authorised persons.

Clause 96 prohibits the impersonation of authorised persons.

PART 6—ADMINISTRATIVE APPEALS

Division 1—The Dairy Industry Tribunal

Clause 97 provides for the establishment of a Dairy Industry Tribunal.

Clause 98 provides for the composition of the Tribunal.

Clause 99 provides for the remuneration of members of the Tribunal.

Clause 100 provides that the Tribunal is to have a secretary and staff as necessary.

Clause 101 provides that the Authority must defray from its funds all costs associated with the establishment and operation of the Tribunal.

Division 2—Proceedings of the Tribunal

Clause 102 provides the time and place of proceedings of the Tribunal.

Clause 103 sets out matters in regard to decisions made by the Tribunal.

Clause 104 deals with the rules of evidence and the procedure of the

Tribunal.

Clause 105 provides the Tribunal with power to summon a person to give evidence or to produce documents.

Division 3—Jurisdiction of Tribunal

Clause 106 provides for matters in relation to appeals to the Tribunal.

Clause 107 sets out the powers of the Tribunal on appeal.

PART 7—MISCELLANEOUS

Clause 108 imposes a duty on an authorised person who takes a sample of dairy produce for analysis to obtain a certificate of analysis.

Clause 109 provides that if a holder of a licence grants a security over the licence he or she must lodge a copy of the instrument with the Authority within 30 days.

Clause 110 deals with the conduct of executive officers, employees and agents.

Clause 111 provides that all penalties, costs, fees and other monies recovered under this Act are to be paid to the Authority and are to be applied by the Authority for the purposes of this Act.

Clause 112 provides for injunctions against persistent offenders.

Clause 113 deals with evidentiary provisions.

Clause 114 provides that the Governor in Council may make regulations for the purposes of this Act.

PART 8—TRANSITIONAL PROVISIONS

Clause 115 provides that until a date fixed by regulation the Queensland Dairy Industry Authority constituted under the *Dairy Industry Act 1989* is to continue in existence and to exercise the powers and functions of the Authority under this Act.

Clause 116 provides that any legal proceeding by or against the Queensland Dairy Industry Authority that has not been completed before its dissolution may continue and be completed by or against the Authority constituted under this Act.

Clause 117 provides that any person who held office on the staff of the Queensland Dairy Industry Authority immediately before the transfer day is transferred to a corresponding office on the staff of the Authority under the Act.

Clause 118 provides for that a superannuation scheme to which the Queensland Dairy Industry Authority was contributing is to be an approved arrangement or scheme for the purposes of section 27 of this Act.

Clause 119 provides that all licences (other than a milkseller's licence), permits and entitlements in force under the former Act continue in force under this Act.

Clause 120 provides that an order, direction or decision of the Queensland Dairy Industry Authority or of an inspector under the former Act continues under this Act.

Clause 121 provides that regulations in force under the former Act immediately before the commencement of the Act remain subject to amendment or repeal by regulation under this Act and will expire six months after the commencement of this Act unless earlier repealed.

PART 9—REPEAL

Clause 122 provides that the *Dairy Industry Act 1989* is repealed.