

# Wellington City Milk-supply Amendment Act 1926

Local Act 1926 No 4  
Date of assent 31 August 1926

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**An Act to amend the Wellington City Milk-supply Act, 1919, and to provide for the Constitution of a Board to fix Prices and Conditions of Milk-supply in relation to the Purchase of Milk by the Wellington City Council in Cases where such Prices and Conditions cannot be arrived at by Agreement, and to give Additional Powers to the Wellington City Council to control certain Milk-suppliers known as Near-by Farmers**

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

**1 Short Title.**

This Act may be cited as the Wellington City Milk-supply Amendment Act, 1926, and shall be read together with and deemed part of the Wellington City Milk-supply Act, 1919 (hereinafter referred to as the principal Act).

**2 Interpretation.**

In this Act, unless inconsistent with the context,—

“Company” means the Wellington Dairy-farmers’ Co-operative Association (Limited):

“Minister” means the Minister of Agriculture:

“Near-by farmers” means persons licensed under the provisions of this Act to supply milk:

“Principal Act” means the Wellington City Milk-supply Act, 1919:

“Society” means the Rahui Suppliers’ Society (Incorporated).

**3 Constitution of Board.**

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

(2.) The Board shall consist of—

(a.) Two persons appointed by the Minister on the recommendation of the Council, who shall act in all matters dealt with by the Board:

(b.)

(i.) Two persons appointed by the Minister on the recommendation of the company, who shall act as members of the Board only when the Board is dealing with matters relating to the affairs of the company; and, alternatively,

(ii.) Two persons appointed by the Minister on the recommendation of the society, who shall act as members of the Board only when the Board is dealing with matters relating to the affairs of the society: and

(c.) When the Board is dealing only with matters relating to the affairs of the company, one person, who shall be Chairman, appointed by the Minister

on the joint recommendation of the persons appointed under paragraph (a) and subparagraph (i) of paragraph (b) of this subsection; and, alternatively, when the Board is dealing only with matters relating to the affairs of the society, one person, who shall be Chairman, appointed by the Minister on the joint recommendation of the persons appointed under paragraph (a) and subparagraph (ii) of paragraph (b) of this subsection:

Provided that if the persons entitled to make either of the recommendations under this paragraph shall for a period of seven days after their appointment fail to agree upon a recommendation the Chairman shall be appointed by a Judge of the Supreme Court under the Arbitration Act, 1908, and the provisions of that Act, and particularly section six thereof, shall apply to every such appointment as if it were the appointment of a single arbitrator made under that Act.

- (3.) When making the appointments provided for in paragraphs (a) and (b) of subsection two of this section the Minister shall, on the same recommendation in each case, appoint a deputy for each person so appointed, and in case of the absence of any such appointed member through illness or other unavoidable cause his deputy may act in his place.
- (4.) Every appointment shall be gazetted, and the gazetting of any appointment shall be conclusive evidence of such appointment; and every appointment shall, subject to the provisions of this Act, remain in force for one year after the date of the appointment.
- (5.) Any member of the Board may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister.
- (6.)
  - (a.) If any vacancy shall arise in any office created under this section the Minister shall, on ascertaining that such vacancy has occurred, by notification in the *Gazette* (which shall be conclusive evidence of such vacancy), notify the occurrence of such vacancy, and thereupon such vacant office shall be filled pursuant to the relevant provisions of this section.
  - (b.) If at any time any person or persons authorized to make a recommendation in any such cases fail to recommend an appointee within one month after the gazetting of any vacancy, the Minister may make the appointment without any such recommendation.

#### **4 Meetings and proceedings of Board.**

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

- (2.) At least three days' notice of such meeting shall be given by the Clerk in all cases to each member of the Board and to the Council; in cases where the company is affected, to the company; and, in cases where the society is affected, to the society.
- (3.) No business shall be transacted at any meeting of the Board unless three members entitled to deal with the business are present, one of whom shall be the Chairman entitled to deal with the business.
- (4.) If any member of the Board be absent without reasonable excuse from any meeting of the Board he shall be guilty of an offence.

#### **5 Clerk.**

The Clerk of Awards at Wellington shall be the Clerk of the Board.

#### **6 Seal.**

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

#### **7 Functions of Board.**

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

#### **8 Minutes.**

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

#### **9 Applications to Board.**

- (1.) On the application of the Council, or the company or the society, made in writing to the Chairman of the Board at any time after the thirty-first day of May in any year the Board shall, after giving the notices hereinbefore prescribed and after having given public notice in the daily newspapers (not exceeding three) generally circulating in the City of Wellington of its first meeting to be held, determine judicially and award on any one or more of the following matters:—
  - (a.) The price that shall be paid for milk purchased by the Council through the company or the society, as the case may be, for its milk-supply during any period of one year;
  - (b.) Any matter relating to the conditions and supply of milk; and, in particular, but without affecting the generality of the matters above mentioned,
  - (c.) Any matter which has heretofore been the subject of agreement between the Council and any milk-vendor, or any matter that, in the opinion of the Board, is ancillary to or necessary for the completion of any award made by the Board, it being clearly understood that no matter on

which an agreement has been arrived at between the Corporation and the company or between the Corporation and the society, as the case may be, shall be subject to variation by any act of the Board.

- (2.) Nothing in this Act contained shall authorize the Board to fix the quantities of milk to be supplied, but all matters relating to quantity of supply shall, subject to the provisions of this Act, be fixed by agreement between the parties affected.

#### **10 Price-fixation.**

- (1.) In fixing the prices for milk the Board may make variations in prices according to the place of delivery.
- (2.) The Board may also, if necessary, fix the amount which is to be allowed to the Corporation for the conveyance of milk for any distance by motor or railway; and the Corporation shall be entitled to deduct from the price fixed by the Board any such allowance.
- (3.) The Board, in fixing prices, shall be guided by prices of milk-products obtaining in New Zealand or England:

Provided always that in fixing increased prices for any period not exceeding four months between the sixteenth day of April and the thirty-first day of August the Board may take into consideration the extra labour and extra cost necessary for the production of milk during that period.

#### **11 Disputes to be referred to Board.**

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

#### **12 Fees.**

- (1.) The Council, the company, and the society shall have the right to pay the persons appointed on their respective recommendations such fees in respect of each sitting not exceeding three pounds three shillings per day as the Council, the company, and the society shall think fit.
- (2.) The fees of the Chairman in respect of each arbitration shall be paid in equal shares by the parties to the arbitration.

#### **13 Qualifications of members of Board.**

Any person directly interested in the production or sale of milk in the Province of Wellington, and any supplier or member or officer of the Council, shall be eligible to be appointed or to be a member of the Board.

**14 Procedure on applications.**

- (1.) Subject to the provisions of this Act, all applications to the Board shall be deemed to be submissions under the Arbitration Act, 1908, as if the Board were a single arbitrator appointed under that Act; and all provisions of the Arbitration Act, 1908, shall, subject to necessary modifications, apply accordingly to such applications.
- (2.) Every question before the Board shall be determined by the majority of the members thereof; but the determination of the majority shall be deemed to be a decision of the Board.
- (3.) If the Board is unable by a majority to agree upon any award the award shall be made by the Chairman, whose award shall in such cases be the decision of the Board.
- (4.) Every award of the Board shall be executed in four parts, the original of which shall be filed by the Clerk of Awards at Wellington, and the other copies of which shall be forwarded to the Council and to the company and the society respectively. Any interested person may at any time inspect or obtain a copy of any award on paying to the Clerk the prescribed fee.

**15 Regulations as to fees and procedure of Board.**

- (1.) The Minister may by regulation—
  - (a.) Prescribe such fees as he thinks fit to be paid by applicants to the Clerk in respect of any hearing or in respect of the issuing of awards or of copies thereof:
  - (b.) Prescribe such forms and procedure as he thinks fit for the purpose of carrying into effect the provisions of this Act relating to the Board:
  - (c.) Prescribe the remuneration to be paid to the Clerk and the fees (if any) to be paid to the persons appointed as Chairman.
- (2.) All fees shall be paid by the Clerk into the Public Account.

**16 Awards final and conclusive.**

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

**17 Milk-purchases subject to Board.**

The provisions of sections three to sixteen inclusive of this Act shall apply only to milk purchased by the Corporation from or through the company or the society.

**18 Appointment of analyst.**

- (1.) All milk received from the company by the Corporation in the city shall be tested and graded by or under the control of an officer appointed by and removable by the Minister of Health.
- (2.) The decision of such officer as to the test and quality of any milk shall be in accordance with the standards fixed by any agreement for sale and purchase, and, subject thereto, his decision as to test and quality shall be final.
- (3.) Such officer shall have an assistant, who shall also be appointed and removable by the Minister of Health.
- (4.) The company shall pay to the Corporation one hundred and fifty pounds per annum towards the salaries of such officer and assistant officer.

**19 Supply of milk by near-by farmer licensees.**

- (1.) Notwithstanding anything contained in the principal Act or this Act, milk produced at dairies situated in the city or situated and lying wholly within two miles of the city as it existed on the first day of January, nineteen hundred and twenty-six, or on any land forming part of dairies licensed under section twelve of the principal Act on the thirty-first day of March, nineteen hundred and twenty-seven, may be sold on or after the first day of April, nineteen hundred and twenty-seven, within the city, subject to the following conditions:—
  - (a.) That no person shall sell milk in the city pursuant to the provisions of this section unless he is the holder of an annual license granted for that purpose by the Council:
  - (b.) That, save as hereinafter provided, no person shall under any license granted under this section sell any milk not produced at his own dairy:
  - (c.) Every person who shall be licensed under this section to sell milk or cream shall be required either to vend himself, or, in the alternative, by a servant employed by him alone and engaged only by him in his business; and such licensee may not employ any agent other than such servant to vend such milk or cream:
  - (d.) No person licensed to sell milk or cream under this section shall sell the same either personally or by servant from any place, shop, or dairy in the city situate elsewhere than at the dairy or farm at which the milk is produced:

Provided that nothing in this subsection shall be construed to limit the right of such person to sell milk from his own vehicle in the ordinary course of vending authorized by this section:
  - (e.) That every Inspector appointed under the principal Act shall have the right to stop any vehicle used by any licensee for the purpose of vending milk, and to enter such vehicle and to examine the milk, and to take such samples as he shall think fit:

- (f.) That no licensee shall purchase milk from any person or persons other than the Corporation, save that in the case of a sudden emergency or of a shortage in his supply of a temporary nature, and not exceeding at any one time fourteen days, a licensee may purchase not more than five gallons of milk in any one day from another licensee:
  - (g.) That on breach of any of the conditions set out in paragraphs (b) to (g) inclusive of this subsection, or if any licensee shall be convicted during any licensing year of three offences against the provisions of the Sale of Food and Drugs Act, 1908, or the regulations made thereunder, the Council may cancel the license of such licensee.
- (2.) The delivery of milk by any person to any licensee shall be conclusive evidence that such licensee has purchased the milk so delivered.
  - (3.) Every person who commits any breach of any of the above-mentioned conditions, or does any act in contravention of the provisions of this section, shall be liable to a penalty of fifty pounds.

#### **20 By-laws in respect of near-by farmers.**

The Council may, with the consent and approval of the Minister of Agriculture, make under the provisions of the Municipal Corporations Act, 1920, by-laws for the following purposes:—

- (a.) Prescribing the annual fee, not exceeding two pounds two shillings, to be paid in respect of licenses issued under section nineteen hereof:
- (b.) Prescribing the form of application for licenses, and requiring applicants to state in such applications such particulars as the Council may require, including the area of the applicant's dairy or farm affected by the license, and a description of his farm sufficient for identification purposes by a reference to survey district, block, and section or lot numbers or otherwise:
- (c.) Requiring any applicant for a license to produce any certificate issued by the Department of Agriculture in respect of dairies supplying milk for consumption in New Zealand.

#### **21 Licenses to be annual.**

Every license granted under this section shall be for a period not exceeding one year, and shall expire on the thirty-first day of March following the date of the license.

#### **22 Right of appeal.**

Any person aggrieved by any decision of the Council in refusing to grant or in revoking or cancelling a license under section nineteen hereof may appeal from such decision to the Senior Stipendiary Magistrate at Wellington, and the decision of such Magistrate on such appeal shall be final and binding on the Council and the licensee.

**23 Amendments and repeal.**

- (1.) Section two of the principal Act is hereby amended by repealing, immediately after the word “means” in line seven thereof, the words “(a) a milk-house, milk-shop, dairy, factory, or any other place where milk is collected, deposited, treated, separated, prepared, or manufactured, or is sold or offered or exposed for sale; and includes (b).”
- (2.) Section four of the principal Act is hereby amended by repealing the words “the last preceding section” in line one thereof, and by substituting therefor the words “this Act.”
- (3.) Section twelve of the principal Act is hereby repealed, and the licenses granted thereunder are revoked.
- (4.) Section eighteen of the principal Act is hereby amended by repealing paragraph (c) thereof.
- (5.) This section shall come into force on the first day of April, nineteen hundred and twenty-seven.