

CHAPTER 260

DAIRY INDUSTRY (REGULATION AND CONTROL) 1968-27

This Act comes into operation on a date to be fixed by proclamation.

Amended by:

This Act has not been amended

CHAPTER 260

DAIRY INDUSTRY (REGULATION AND CONTROL) 1968-27

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**BARBADOS****DAIRY INDUSTRY (REGULATION AND CONTROL)
1968-27**

An Act to provide for the regulation and control of the production and distribution of milk and milk products in the Island, to establish a Milk Advisory Board, and for matters connected therewith and incidental thereto.

Short title

1. This Act may be cited as the Dairy Industry (Regulation and Control) Act.

**PART I
PRELIMINARY****Interpretation**

- 2.(1) For the purposes of this Act, the expression—
“appropriate authority” means the Chief Agricultural Officer or such other public officer as may from time to time be designated by the Minister;
“bottle” includes a carton or other approved container used for the sale of milk by retail;

“dairy” includes any farm, cowshed, milk store, milk shop or other premises from which milk is supplied on or for sale or in which milk is kept or used for purposes of sale or of manufacture into butter, cheese, dried milk or condensed milk for sale or in which vessels used for sale of milk are kept, but does not include a shop from which milk is supplied only in the properly closed and unopened vessels in which it is delivered to the shop or a shop or other place in which milk is sold for consumption on the premises only;

“dairy keeper” means any person who sells or offers for sale milk produced by milch animals owned or maintained by him;

“dairy premises” means premises used or proposed to be used for any of the purposes of the milk trade;

“Medical Officer of Health” includes a Senior Medical Officer of Health or any qualified medical officer so designated by the Chief Medical Officer;

“milk” means fresh, clean, unadulterated lacteal secretion from the complete milking of healthy cows;

“milk processor” means any person who processes milk or milk products intended for human consumption;

“milk product” means any product made wholly or substantially from milk or its constituents and includes sweetened condensed milk, sweetened condensed skimmed milk, unsweetened evaporated milk, milk powders, baby foods compounded mainly of milk constituents, flavoured milk and milk beverages, toned reconstituted or recombined milk, cultured milk preparations, butter, anhydrous milk-fat, cheese, ice-cream and any product intended to be sold as a milk product in which the fat constituent is formed either wholly or in part of edible oils or fats other than milk-fat;

“milk seller” means any person who sells milk or engages in the business of selling milk or milk products;

“milk trade” includes the production, sale, treatment or distribution of milk and the manufacture of cream, ice-cream, butter, cheese, powdered milk or condensed milk or other milk products;

“Minister” means the Minister responsible for Agriculture;

“sale” or “sell” includes barter, supply for profit, offering or attempting to sell, or receiving for sale or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered or exposed for sale.

(2) A reference in this Act to “ approved ” shall, unless the context otherwise requires, be construed as a reference to “ approved by the Minister ”.

(3) Where any function is, by this Act or by any statutory instrument made or issued thereunder, required, permitted or otherwise to be performed by the Minister, the appropriate authority or by the Chief Medical Officer, that function may be performed by some person authorised in that behalf in writing by the Minister, the appropriate authority or the Chief Medical Officer, as the case may be.

PART II

LICENSING OF DAIRY KEEPERS

Dairy keepers to be licensed

3. As from the commencement of this Act, no dairy keeper shall sell or offer for sale any milk unless he has first been granted by the appropriate authority a dairy keeper’s licence in the prescribed form.

Application of dairy keeper’s licence

4.(1) An application for a dairy keeper’s licence shall be made to the appropriate authority in the prescribed form.

(2) On the receipt of any such application the appropriate authority shall decide whether or not to grant such a licence to the applicant and in so doing shall take into account—

- (a) the health of the applicant and of the persons who are employed by the applicant to assist him in the functions of milking and milk handling;
- (b) the health of the animals in the control of the applicant;
- (c) the conditions under which the animals are housed and kept.

(3) Every application made under this section shall be accompanied by a certificate of health issued by a registered medical practitioner in respect of the applicant and of each person employed by or proposed to be employed by the applicant to assist him in the functions of milking and milk handling.

Refusal to grant licence

5. Where an application for a dairy keeper's licence is refused by the appropriate authority—

- (a) the appropriate authority shall notify the applicant in the prescribed form of the reasons for such refusal;
- (b) the applicant shall on receipt of such notification immediately cease the sale of milk.

Licensing year duration and renewal of dairy keeper's licence

6.(1) The period in respect of which a dairy keeper's licence may be issued shall be from the 1st January to the 31st December in each year, but in the year in which this Act comes into operation such period shall be from the commencement of this Act until the 31st December.

(2) A dairy keeper's licence shall be valid from the 1st January or from the date of issue, if later, and shall, unless previously cancelled, remain in force until the 31st December in the year in which it is issued.

(3) A dairy keeper's licence may be renewed annually in the month of January.

Licence fees

7. There shall be paid for the issue or renewal of a dairy keeper's licence such fees as may be prescribed.

Cancellation of dairy keeper's licence

8. A dairy keeper's licence may be cancelled by the appropriate authority if—

- (a) the licensee fails to observe any of the conditions subject to which the licence is granted;
- (b) the licensee disposes of or ceases to keep milch animals;
- (c) the licensee requests the appropriate authority in writing to cancel the licence;
- (d) the licensee dies.

Conditions applying to dairy keeper's licence

9. It shall be a general condition applying to a dairy keeper's licence that the licensee shall at all times prevent any contamination being caused to the milk from the milch animals while such milk remains in his possession before sale; and it shall be a breach of the conditions of the licence if any contamination is permitted to occur.

Dairy keeper's licence non-transferable

10. A dairy keeper's licence shall not be transferable.

Medical certificate

11. Every dairy keeper and every person employed by a dairy keeper to assist him in the functions of milking and milk handling shall at all times when

engaged in milking or milk handling be in possession of a certificate of health issued by a registered medical practitioner.

PART III

LICENSING OF MILK PROCESSORS

Licensing of milk processor

12. As from the commencement of this Act, no person, partnership, cooperative society or body corporate shall carry on the business of processing milk or milk products for sale for human consumption unless such person, partnership, cooperative society or body corporate has first been granted by the appropriate authority a milk processor's licence in the prescribed form.

Application for milk processor's licence

13.(1) An application for a milk processor's licence shall be made in the prescribed form.

(2) On receipt of any such application, the appropriate authority shall decide whether or not to grant such licence to the applicant and in so doing shall take into account—

- (a) the standard of the premises and equipment being used or proposed to be used by the applicant;
- (b) the extent to which the granting of such a licence may be in the public interest.

Refusal to grant milk processor's licence

14. Where an application for a milk processor's licence is refused by the appropriate authority—

- (a) the appropriate authority shall notify the applicant in the prescribed form of the reasons for such refusal;

- (b) the applicant shall, if he was previously carrying on the business of processing milk or milk products for human consumption, cease to carry on such business from the date of the receipt of such notification.

Licensing year duration and renewal of milk processor's licence

15.(1) The period in respect of which a milk processor's licence may be issued shall be from the 1st January to the 31st December in each year, but in the year in which this Act comes into operation such period shall be from the commencement of this Act until the 31st December.

(2) A milk processor's licence shall be valid from the 1st January or from the date of issue, if later, and shall, unless previously cancelled, remain in force until the 31st December in the year in which it is issued.

(3) A milk processor's licence may be renewed annually in the month of January.

Conditions to be specified in milk processor's licence

16. There shall be specified in a milk processor's licence granted under this Act—

- (a) the period of validity of the licence;
- (b) the product or products which the licensee may process or manufacture;
- (c) any special conditions under which the products so specified may be processed or manufactured;
- (d) any other conditions which, in the opinion of the appropriate authority, should, in the public interest, be attached to the licence.

General conditions applying to milk processor's licence

17. It shall be a general condition applying to a milk processor's licence that the licensee shall—

- (a) purchase—
 - (i) to such extent as the Minister may specify in writing to the licensee, and
 - (ii) at such price or prices as may be determined in accordance with any method specified in this or any other enactment for determining the price of milk,

such quantities of locally produced milk as may be available and offered for sale to the licensee by licensed dairy keepers;

- (b) test or cause to be tested by specified or approved methods all milk offered for sale to the licensee by licensed dairy keepers and retain the results of such tests for such period for examination by the Minister as the Minister may stipulate;
- (c) keep proper records of such details of purchase, usages and sales of milk and milk products and of such other information as the Minister may require;
- (d) where the Minister so requires, use only milk or milk products approved by the Minister if such products are obtained from sources outside the Island.

Grant of exclusive licence

18. The Minister may by order published in the *Official Gazette* restrict the number of milk processor's licences for a specified period.

Fees for milk processor's licence

19. There shall be paid for the issue or renewal of a milk processor's licence such fees as may be prescribed.

Cancellation of milk processor's licence

20. A milk processor's licence may be cancelled by the appropriate authority if—

- (a) the licensee fails to observe the conditions subject to which the licence is granted;
- (b) the licensee ceases to use his equipment or the premises in respect of which he has been granted a licence for the purpose of processing milk or milk products;
- (c) the appropriate authority considers that the licensee is not discharging his obligations under the licence in a fit and proper manner;
- (d) the licensee requests the appropriate authority in writing to cancel the licence.

Milk processor's licence non-transferable

21. A milk processor's licence shall not be transferable.

PART IV

LICENSING OF MILK SELLERS

Licensing of milk sellers

22. As from the commencement of this Act, no person, other than a person exempted from this section, shall carry on the business of a milk seller unless such person has first been granted by the appropriate authority a milk seller's licence in the prescribed form.

Exemption from need to hold licence

23. The following persons shall be exempt from the requirement to hold a milk seller's licence—

- (a) any licensed dairy keeper;
- (b) any licensed milk processor;
- (c) any shopkeeper who sells any powdered milk or milk or milk products in hermetically sealed tins or in other approved containers so obtained from a licensed milk processor.

Application for milk seller's licence

24.(1) An application for a milk seller's licence shall be in the prescribed form.

(2) On receipt of any such application the appropriate authority shall decide whether or not to grant such a licence to the applicant and in so doing shall take into account—

- (a) the health of the applicant and of the persons who are likely to assist the applicant in the selling of milk;
- (b) the conditions under which the applicant proposes to keep, sell or transport milk.

(3) Every application made under this section shall be accompanied by a certificate of health issued by a registered medical practitioner in respect of the applicant and of each person employed by or proposed to be employed by the applicant in connection with the business of selling milk.

Refusal to grant milk seller's licence

25. Where an application for a milk seller's licence is refused by the appropriate authority—

- (a) the appropriate authority shall notify the applicant in the prescribed form of the reason for such refusal;
- (b) the applicant shall, if he was previously carrying on the business of selling milk, cease to carry on such business from the date of the receipt of such notification.

Licensing year, duration and renewal of milk seller's licence

26.(1) The period in respect of which a milk seller's licence may be issued shall be from the 1st January to the 31st December in each year, but in the year in which this Act comes into operation such period shall be from the commencement of this Act until the 31st December.

(2) A milk seller's licence shall be valid from the 1st January or from the date of issue, if later, and shall, unless previously cancelled, remain in force until the 31st December in the year in which it is issued.

(3) A milk seller's licence may be renewed annually in the month of January.

Conditions to be specified in milk seller's licence

27. There shall be specified in a milk seller's licence granted under this Act—

- (a) the period of validity of the licence;
- (b) any special conditions which, in the opinion of the appropriate authority, should, in the public interest, be attached to the licence.

General conditions applying to milk seller's licence

28. It shall be a general condition of a milk seller's licence that the licensee shall—

- (a) purchase or otherwise acquire supplies of milk—
 - (i) only from licensed milk processors, licensed dairy keepers or other licensed milk suppliers; and
 - (ii) only at such price or prices as may be determined in accordance with any method specified in this or any other enactment for determining the price of milk;
- (b) sell or otherwise dispose of milk in a manner which is likely at all times to avoid any risk of exposing consumers to milk-borne contamination caused by any act or omission of the licensee;
- (c) comply at all times with any special conditions which the appropriate authority may attach to the licence.

Fees for milk seller's licence

29. There shall be paid for the issue or renewal of a milk seller's licence such fees as may be prescribed.

Cancellation of milk seller's licence

30. A milk seller's licence may be cancelled by the appropriate authority if—

- (a) the licensee fails to observe any of the conditions subject to which the licence is granted;
- (b) the licensee ceases to carry on the business of a milk seller;
- (c) the licensee requests the appropriate authority in writing to cancel the licence;

(d) the licensee dies.

Milk seller's licence non-transferable

31. A milk seller's licence shall not be transferable.

Milk seller's licence may be granted to dairy keeper or milk processor

32. Nothing contained in this Act shall be deemed to prevent a licensed dairy keeper or a licensed milk processor from being granted a milk seller's licence.

PART V

MILK ADVISORY BOARD

Establishment and constitution of Milk Advisory Board

33.(1) There shall be established for the purposes of this Act a body to be called the Milk Advisory Board (hereinafter in this Act referred to as "the Board") which shall consist of a chairman and not more than six other members to be appointed by the Minister by instrument in writing.

(2) The Minister shall appoint as chairman of the Board a person who has no pecuniary or other interest in the production or sale of milk or milk products.

(3) Of the members of the Board—

- (a) two shall be appointed from among persons who are representatives of licensed dairy keepers;
- (b) two shall be appointed from among persons who are representatives of licensed milk processors;
- (c) two shall be appointed from among persons who are not licensed dairy keepers or licensed milk processors or representatives or agents of licensed dairy keepers or licensed milk processors.

- (4) The Minister shall appoint as deputy chairman of the Board a member of the Board appointed in accordance with paragraph (c) of subsection (3).
- (5) Subject to this section, the chairman and other members of the Board shall hold office for such period not exceeding three years as may be directed by the Minister in their respective instruments of appointment.
- (6) Subject to subsection (3), any member of the Board shall be eligible for re-appointment.
- (7) The Minister may by instrument in writing appoint some suitable person to act temporarily in the place of the chairman or any other member of the Board in the case of the absence or inability to act of the chairman or of such other member, as the case may be; but no person may be appointed pursuant to this subsection who is not qualified for appointment as chairman or other member of the Board under subsection (2) or (3), as the case may be.
- (8) Any member of the Board, other than the chairman, may at any time resign his office by instrument in writing addressed to the chairman who shall forthwith cause the same to be forwarded to the Permanent Secretary to the Minister, and from the date of receipt by the Permanent Secretary of such instrument such member shall cease to be a member of the Board.
- (9) The chairman may at any time resign his office by instrument in writing addressed to the Permanent Secretary to the Minister and such resignation shall take effect as from the date of receipt of such instrument by the Permanent Secretary.
- (10) The Minister may by instrument in writing at any time revoke the appointment of the chairman, deputy chairman, or any other member of the Board, if he thinks it expedient so to do.
- (11) The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Official Gazette*.

Meetings and procedure of Board

34.(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The chairman, or in his absence the deputy chairman, shall preside at all meetings of the Board.

(3) The chairman, or in his absence the deputy chairman, and three other members shall form a quorum.

(4) The decisions of the Board shall be by a majority of votes of members present and voting. In addition to an original vote, in any case in which the voting is equal, the chairman, or deputy chairman presiding at the meeting, shall have a casting vote.

(5) Minutes in proper form of each meeting shall be kept by the secretary of the Board and shall be confirmed by the Board at the next meeting and signed by the chairman or deputy chairman, as the case may be.

(6) The Permanent Secretary to the Minister shall from time to time assign a public officer from the office of the Minister to perform the functions of secretary of the Board.

(7) The acts of the Board shall be authenticated by the signature of the chairman or deputy chairman, and the secretary of the Board.

(8) Subject to the provisions of this section the Board may regulate its own proceedings.

Remuneration of members of Board

35. The chairman and other members of the Board shall receive such remuneration and other allowances as the Cabinet may from time to time determine.

Protection of Board and its members

36.(1) No act done or any proceedings of the Board shall be questioned on the ground of the existence of any vacancy in the membership of, or any defect in, the constitution of the Board.

(2) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance of or execution or intended execution of this Act.

Functions of Board

37.(1) It shall be the duty of the Board to make recommendations to the Minister from time to time as to the prices which should be paid from time to time for milk produced by licensed dairy keepers and offered for sale by them to licensed milk processors or licensed milk sellers and generally as to the prices of milk and milk products.

(2) The Board shall perform such other functions in connection with the purposes of this Act as the Minister may from time to time determine.

Aims to be pursued by Board in making recommendations

38. In making any recommendations to the Minister pursuant to section 37, the Board shall, as far as possible, frame its recommendations so as—

- (a) to encourage the production of adequate supplies of high quality milk;
- (b) to widen the market for milk and milk products by encouraging, by means of price differentials and otherwise, the adoption of efficient and economical methods of milk production;
- (c) to discourage the development of wasteful or costly methods of milk production and distribution;

- (d) to reconcile as far as may be practicable the divergent claims which may be expected to exist as between dairy keepers, processors, sellers and consumers of milk and milk products;
- (e) to promote the interests of the dairy industry as a whole.

Power of Board to summon persons and require information, etc.

39. For the purposes of carrying out its functions under this Act, the Board may—

- (a) summon before it any person, who in its opinion may be able to assist it in its deliberations;
- (b) require from any person summoned before it or from any other person the production of any statistical or other information that, in its opinion, may be useful in the preparation of its recommendations to the Minister.

Board to notify Minister of its recommendations

40. The Board shall, as soon as possible after deciding to make any recommendations pursuant to section 37, notify the Minister in writing of the recommendations.

Determination by Minister of price of milk and milk products

41.(1) The Minister shall consider all recommendations submitted to him by the Board pursuant to sections 37 and 40 and, on the basis of such recommendations, shall by notice published in the *Official Gazette* determine the price or prices to be paid from time to time for milk and milk products.

(2) Every notice published by the Minister under this section shall specify the date or dates from which the price or prices as determined by the Minister shall apply and from such date or dates such price or prices shall be binding on all persons.

(3) Where pursuant to subsection (1) the Minister by notice published in the *Official Gazette* determines the price or prices to be paid for milk or milk products, then, from the date or dates specified in any such notice the *Miscellaneous Controls Act*, Cap. 329 or any order made or deemed to have been made under that Act shall cease to apply to any milk or milk products specified in the said notice.

PART VI MISCELLANEOUS

Appeals from refusal of appropriate authority to grant licences

42.(1) An applicant for any licence under this Act whose application has been refused by the appropriate authority, if he is aggrieved by such decision of the appropriate authority, may appeal to the Minister in the prescribed manner and within the time prescribed or within such further time as the Minister may in his discretion allow.

(2) Where an appeal is brought under subsection (1), the Minister may allow or dismiss the appeal and may deal with the application as if it had been made to him in the first instance.

(3) The decision of the Minister on any such appeal shall be final.

(4) Nothing contained in this section shall prevent an applicant whose application for a licence under this Act has been refused from re-applying for such a licence.

Power of entry, inspection, etc of authorised officers

43.(1) Any person authorised in writing by the appropriate authority or by the Chief Medical Officer may, at all reasonable times on production of his authority—

- (a) enter and inspect any premises which are used or are believed to be used for the production, processing or sale of milk or milk products;

- (b) enter any such premises as are referred to in paragraph (a) and examine and take notes, copies or extracts from any books, documents or papers found therein relating to the production, supply, collection, processing, storage, distribution or sale of milk or milk products;
- (c) examine any scale, measure, appliance, apparatus, utensil or vehicle used in the production, supply, collection, processing, storage, distribution or sale of milk or milk products;
- (d) take or purchase samples of milk or milk products from any premises, measure, appliance, apparatus, utensil or vehicle referred to in this section.

(2) No person authorised to enter and inspect any premises referred to in subsection (1) shall publish or disclose any information obtained by him in the performance of his functions under this section except for the purposes of this Act or of a prosecution for an offence under this Act or any statutory instrument made or issued thereunder.

(3) No information furnished or obtained under subsection (1) shall be published in such a form as to disclose information in regard to a particular person, partnership, co-operative society or body corporate unless such person, partnership, co-operative society or body corporate consents to the publication thereof.

Power to make regulations

44. For the purposes of this Act, the Minister responsible for Agriculture and the Minister responsible for Health, acting jointly, may make regulations for all or any of the following matters—

- (a) the keeping of cows and the erection of cow pens;
- (b) the prescribing of any area within which cows may not be kept;
- (c) the form, issue and cancellation of any licences authorised by this Act;

- (d) the payment of fees for licensing and medical examinations required by this Act;
- (e) the health of persons engaged in or in any way connected with the milk trade;
- (f) the health of animals used in the dairy industry;
- (g) sanitation in the dairy industry including precautions for protecting milk against infection or contamination and preventing danger to health from the sale of infected or contaminated milk;
- (h) the inspection of dairies and the fixing of standards for the operation of dairies;
- (i) the fixing of standards for the construction and operation of milk processing plants;
- (j) the production, storage, conveyance, distribution and sale of milk and milk products;
- (k) examination of animals with regard to their fitness for the purposes of the dairy industry, the manner in which any such animals shall be dealt with if unfit for such purposes and the payment of compensation in such cases;
- (l) the prohibition of sale or advertisement of milk by any other designation than milk;
- (m) securing the wholesomeness and purity of milk and milk products intended for human consumption;
- (n) generally for prescribing anything required to be prescribed by or under this Act and for carrying this Act into effect.

Offences

45.(1) Any person who—

- (a) being the holder of a licence granted under this Act, contravenes or fails to comply with, or permits or causes any person to contravene or fail to comply with, any condition subject to which any such licence is granted; or
- (b) without lawful excuse resists or obstructs any person acting in the exercise of his functions under this Act; or
- (c) without lawful excuse fails or refuses to appear before the Milk Advisory Board when summoned to do so; or
- (d) without lawful excuse, fails or refuses to produce to the Milk Advisory Board any information required by the Board; or
- (e) sells, offers for sale or buys any milk or milk products at a price higher than that determined by the Minister under Part V; or
- (f) otherwise contravenes any provision of this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months or to both such fine and imprisonment.

(2) The conviction of a person who is the holder of a licence granted under this Act of an offence under this section or of an offence against any statutory instrument made or issued under this Act shall not be deemed to prevent the revocation of any licence held by such person if provision is made for the revocation of any such licence by or under this Act or in any conditions subject to which the licence is granted.

(3) Proceedings for an offence under this Act or any statutory instrument made or issued thereunder may be instituted in the name of the appropriate authority or the Chief Medical Officer and in any such proceedings the appropriate authority or the Chief Medical Officer may be represented by any person

authorised in that behalf by the appropriate authority or the Chief Medical Officer, as the case may be.

Statutory instruments, etc., under Dairies Act, 1941 to remain in force

46. Any statutory instrument made or issued under the Dairies Act, 1941* shall, in so far as it is in force at the commencement of this Act and is not inconsistent with this Act, continue in force as if made or issued under this Act, notwithstanding the repeal of that Act.

**[Act, 1941-17, was repealed by the original section 46 (1) of this Act, not reprinted.]*

Commencement

47. This Act shall come into operation on such day as the Governor-General may appoint by proclamation.