

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE DAIRY PRODUCE MARKETING AND LEVY ACT

CHAPTER 234 OF THE LAWS OF ZAMBIA

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THE DAIRY PRODUCE MARKETING AND LEVY ACT

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CHAPTER 234

DAIRY PRODUCE MARKETING AND LEVY

An Act to make provisions with respect to the operation and functions of the Dairy Produce Board, to provide generally for the regulation of the marketing of dairy produce and for the imposition and collection of levies on certain dairy produce, and for incidental matters.

[18th May, 1962]

27 of 1961
32 of 1962
13 of 1994
Government Notices
91 of 1964
157 of 1964
497 of 1964
Statutory Instrument
176 of 1965

PART I PRELIMINARY
PART I

PRELIMINARY

1. This Act may be cited as the Dairy Produce Marketing and Levy Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

"Board" means the Dairy Produce Board established under section *three* of the Dairy Produce Board (Establishment) Act;

"butter" means the substance commonly known as butter made exclusively from milk or cream or milk and cream, with or without salt or other preservative and with or without the addition of colouring matter;

"butterfat" means the pure fat of milk but does not include the substance commonly known as ghee;

"cheese" means the substance commonly known as cheese containing no fat other than butterfat;

"class", in relation to dairy produce, includes grade, quality, standard and type;

"cream" means that part of milk rich in butterfat which has been skimmed from milk;

"dairy industry" means anything and everything connected with the production, manufacture, preparation and marketing of dairy produce;

"dairy produce" means milk and any milk product;

"dealer" includes any person engaged in the dairy industry and cognate expressions shall be construed by reference, *inter alia*, to transactions and operations such as are carried out by persons engaged in the dairy industry;

"depot" means a depot appointed, established or maintained by the Board for the receipt or sale of dairy produce;

"financial year" means the period beginning on the 1st January, 1964, and ending on the 30th June, 1964, and thereafter the period of twelve months ending on the 30th June each year;

"ices and flavoured milk products" means-

- (a) ice-cream; and
- (b) any frozen concoction containing flavourings or fruit juices or dairy produce and flavourings or fruit juices; and
- (c) any beverage containing dairy produce and flavourings or fruit juices;

"inspector" means an inspector appointed in terms of subsection (1) of section *twenty-nine*, and includes a person exercising or performing any of the powers or duties of an inspector conferred or imposed upon him in terms of subsection (2), (3) or (4) of that section;

"levy" means a levy imposed by the provisions of section *nineteen*;

"member" means a member of the Board;

"milk" means cow's milk in the form in which it comes from the cow;

"milk product" means butter, butterfat, the substance commonly known as ghee, cheese, cream and any other like product of milk, including skimmed milk and milk which has been condensed, dried or evaporated;

"producer" means a producer of milk or a milk product manufactured or prepared by him from milk of which he is the producer;

"producer-retailer" means a producer who sells milk or a milk product by retail;

"producer-wholesaler" means a producer who is not a producer-retailer;

"registered" means registered in terms of section *twenty-six* and "application for registration" and "registration" shall be construed accordingly;

"sell" includes to-

(2) For the purposes of this Act a producer who sells milk or a milk product to a person, other than the Board or a prescribed dealer or member of a prescribed class of dealers, shall be deemed to have sold the milk or the milk product by retail.

(As amended by No. 32 of 1962, G.N. No. 91 of 1964
and S.I. No. 176 of 1965)

PART II FINANCIAL PROVISIONS RELATING TO BOARDPART II

FINANCIAL PROVISIONS RELATING TO BOARD

3. It shall be the object of the Board so to exercise its functions and conduct its business as to ensure that its revenues, taking one year with another, are not less than sufficient to enable the Board to meet the outgoings of the Board properly chargeable to revenue account and to make the provision which is required to be made by the Board in terms of sections *four* and *five*.

Conduct of financial affairs of Board

4. (1) The Board shall charge to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account and, in so doing, shall make in each financial year proper provision for-

Board to make certain charges to revenue account, etc.

(a) the depreciation of assets; and

(b) the payment of interest on and all other charges and expenses incurred in connection with loans.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account as in subsection (1) is provided, the Board may also, with the approval of the Minister responsible for finance, make in each financial year provision for meeting, in whole or in part, increases in the cost of replacing assets.

5. (1) The Board shall in each financial year make such provision as may be necessary for the redemption of loans.

Board to make provision for the redemption of loans

(2) Moneys put aside by the Board in pursuance of the provisions of subsection (1) shall, until such time as they are used for the redemption of loans, be invested in such manner as the Board with the approval of the Minister, acting on the advice of the Minister responsible for finance, may determine.

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6. (1) The Board shall establish a general reserve account to which the Board may appropriate from a surplus of revenue over expenditure such moneys as the Minister may approve.

Establishment and operation of general reserve account of Board

(2) Subject to the provisions of section seven, moneys in the general reserve account may, with the approval of the Minister, be used for such purposes as the Board may consider expedient for the proper exercise of its functions.

7. (1) If in any financial year the revenues of the Board, together with any surplus revenue brought forward from any preceding financial year, are insufficient to enable the Board to meet the outgoings of the Board properly chargeable to revenue account and to make the provision which is required to be made by the Board in terms of sections four and five, the deficiency shall, unless the Minister otherwise directs, be met from the general reserve account established in terms of subsection (1) of section six.

Meeting of deficiencies

(2) If the moneys in the general reserve account are insufficient for the purpose of meeting any amount which in terms of subsection (1) is required to be met from the general reserve account, the amount outstanding after the application of those moneys to that purpose shall be met by the Minister out of moneys appropriated for the purpose by Parliament.

(As amended by G.N. Nos. 91 and 157 of 1964)

8. The Board shall establish and administer, in accordance with the directions of the Minister, a dairy produce price stabilisation fund for the purpose of stabilising the price at which the Board sells dairy produce imported into Zambia and dairy produce produced, manufactured or prepared in Zambia.

Establishment of dairy produce price stabilisation fund

(As amended by G.N. No. 91 of 1964)

9. (1) The Board shall establish and administer a fund into which the Board shall pay the proceeds of any levy.

Establishment of levy fund

(2) The moneys in the fund referred to in subsection (1) shall be used by the Board-

- (a) to meet any costs and expenses incurred by the Board in connection with a levy; and
- (b) for the purpose of making, in accordance with the directions of the Minister, payments into the dairy produce price stabilisation fund established in terms of section eight; and
- (c) with the approval of the Minister, to meet such expenses as may be incurred by the Board in the exercise of its powers referred to in paragraphs 25 and 26 of the Schedule.

(As amended by G.N. No. 91 of 1964)

10. The income of the Board from whatever source shall be exempt from any tax leviable under the Income Tax Act.

Income of Board
exempt from income
tax, etc.
Cap. 323

11. (1) The Board shall keep proper books of account and other records in relation thereto and to all its operations, undertakings and property and, in addition, such particular accounts and records in respect of all or any of its operations, undertakings and property as the Minister may direct.

Accounts of Board

(2) The Board shall keep separate accounts in relation to any business which the Board conducts for the account and at the risk of other persons.

(3) The allocation to each account kept by the Board in terms of subsection (2) of the Board's transport, handling and storage costs, the charges in respect of which the Board is required to make provision in terms of section *four* and other like expenses and charges shall be made in such manner as the Board, with the approval of the Minister, may determine.

12. (1) The Board shall, with the approval of the Minister, appoint one or more persons who publicly carry on the profession of accountants, hereinafter referred to as the auditors, to examine and report to the Board and the Minister on the accounts of the Board not less than once each financial year.

Appointment of
auditors and audit of
Board's accounts

(2) In addition to the report referred to in subsection (1), the Minister may require the Board to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Board as the Minister may consider expedient.

(3) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof and all books, papers and writing in its possession or control relating thereto.

(4) The auditors shall be entitled at all reasonable times to require from all members and all persons in the employ of the Board such information and explanations as may be necessary for the performance of their duties as auditors.

13. It shall be the duty of the auditors to certify not less than once in each financial year whether or not-

Duties of auditors

- (a) they have received all the information and explanations which, to the best of their knowledge and belief, were necessary for the performance of their duties as auditors; and
- (b) the accounts of the Board have been properly kept; and
- (c) the accounts of the Board present a true and fair view of the financial position of the Board according to the information and explanations given and the books and records produced to them; and
- (d) the Board has complied with the provisions of this Part with which it is the duty of the Board to comply and with their requirements as auditors.

PART III FUNCTIONS, POWERS AND DUTIES OF BOARD

FUNCTIONS, POWERS AND DUTIES OF BOARD

14. (1) The functions of the Board shall, subject to the provisions of this Act and any direction given to the Board by the Minister, be to-

Functions of Board

- (a) buy at the appropriate prescribed prices any butterfat, cream or milk which is delivered by a registered producer-wholesaler of butterfat, cream or milk, as the case may be, to any depot appointed by the Board for the purpose; and
- (b) manufacture and prepare milk products; and
- (c) market, within and outside Zambia, milk and milk products.

(2) Nothing in paragraph (a) of subsection (1) shall be construed as precluding the Board when performing its function referred to in that paragraph from directing a registered producer-wholesaler to deliver his butterfat, cream or milk during such periods and to such depot appointed by the Board for the purpose of the delivery to the Board of butterfat, cream or milk, as the case may be, as the Board may specify.

(3) If the Board directs a registered producer-wholesaler to deliver his butterfat, cream or milk to a depot other than the depot appointed by the Board for the purpose of the delivery to the Board of butterfat, cream or milk, as the case may be, which is nearest to the place at which he produces milk, the Board shall pay to him so much of the reasonable transport costs incurred by him in delivering his butterfat, cream or milk to the depot specified by the Board as exceeds the reasonable transport costs which he would have incurred had he delivered his butterfat, cream or milk to that depot nearest to the place at which he produces milk.

(As amended by G.N. No. 91 of 1964)

15. (1) Subject to the provisions of this Act, the Board may, with the approval of the Minister, do all or any of the things specified in the Schedule either absolutely or conditionally and whether solely or jointly with others. Powers of Board

(2) The Minister may approve the exercise by the Board of the power to do a thing specified in the Schedule either generally or specially.

16. For the better exercise of the functions and powers of the Board, the Board- Appointment of manager, etc.

(a) shall appoint a person, approved by the Minister, as manager in whom, subject to the control of the Board, shall be vested the management of the operations, undertakings and property of the Board; and

(b) may, within or outside Zambia, employ such persons, other than a manager, and appoint such agents as the Board may consider expedient for the purpose.

(As amended by G.N. No. 91 of 1964)

17. The Board may, with the approval of the Minister, make by-laws for- By-laws of Board

(a) the good management and conduct of the operations, undertakings and property of the Board; and

(b) the conditions of service of persons in the Board's employ;

and any other matter in the opinion of the Board necessary or convenient to be provided in connection therewith.

18. The Board shall submit an annual report and in addition- Reports of Board

(a) may submit to the Minister such other reports as the Board may deem advisable; and

(b) shall submit to the Minister such other reports as the Minister may require;

in regard to the operations, undertakings and property of the Board.

(As amended by G.N. No. 91 of 1964)

PART IV IMPOSITION OF LEVY ON DAIRY PRODUCEPART IV

IMPOSITION OF LEVY ON DAIRY PRODUCE

19. (1) There shall, subject to the provisions of this Act, be a levy or levies at such rate or rates, not exceeding in the case of milk delivered to the Board a rate of one ngwee for every 4.5 litres, as the Minister may prescribe on such dairy produce produced, manufactured or prepared in Zambia as the Minister may determine. Imposition of levy

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(2) No levy shall be payable on dairy produce which is produced, manufactured or prepared by a producer and consumed by him, members of his household or his servants.

(As amended by G.N. No. 91 of 1964)

20. (1) The Minister shall prescribe-

Payment, collection
and remittal of levy

- (a) the persons who shall be responsible for the payment of a levy; and
- (b) the persons who shall be responsible for the collection and remittal of a levy; and
- (c) the manner and times at which a levy shall be paid, collected and remitted.

(2) A levy shall be remitted to the Board.

21. (1) In prescribing the persons, the rate of a levy and other matters which by this Part are required or permitted to be prescribed, the Minister may-

Minister may make
different provision in
respect of different
classes of dairy
produce

- (a) make different provision in respect of different classes of dairy produce and different areas in which dairy produce is produced, manufactured, prepared, sold or dealt in; and
- (b) make no provision in respect of particular classes of dairy produce; and
- (c) make different provision in respect of different classes of persons prescribed for the purposes of section *twenty*; and
- (d) provide that a levy may be paid, collected or remitted by different methods or at different times; and
- (e) provide for exemptions from a levy.

(2) In prescribing classes of dairy produce for the purposes of this Part, the Minister may have regard, amongst other things, to the purposes for which or the manner or areas in which or the persons by whom dairy produce is produced, manufactured, prepared, sold or dealt in.

22. The Minister may by regulation-

- (a) withdraw a levy; or
- (b) suspend a levy in whole or in part.

Withdrawal or suspension of levy

23. (1) On the conviction of a person for an offence of failing or refusing to pay a levy or to collect or remit a levy to the Board in terms of this Act, the court convicting the accused may, on the application of the prosecutor and in addition to any penalty which it may inflict, give summary judgment against the accused in favour of the Board for the amount of the levy to which the offence relates.

Summary judgment for levy in criminal proceedings

(2) A judgment given by a court in terms of subsection (1) shall have the same force and effect and may be executed in the same manner as if the judgment had been given in a civil action instituted in the court.

24. The Board may, by civil action in a competent court, recover the amount of a levy which is due in terms of this Act from a person required in terms of this Act to pay the levy or to collect and remit the levy to the Board.

Recovery of levy

PART V MARKETING OF DAIRY PRODUCEPART V

MARKETING OF DAIRY PRODUCE

25. (1) No person who is not a registered producer-retailer shall sell within a prescribed area cream, milk or skim milk which has not been acquired from or is not the property of the Board:

Restriction on sale of certain dairy produce

Provided that the provisions of this subsection shall not apply to-

- (i) the sale of cream which has been sterilised and placed in hermetically sealed containers; or
- (ii) the sale of cream, milk or skim milk by or to the Board or a prescribed dealer or member of a prescribed class of dealers.

(2) No producer shall sell milk or a milk product unless-

- (a) he is a registered producer-wholesaler of milk or, as the case may be, the milk product; or
- (b) he is a registered producer-retailer:

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Provided that the provisions of this subsection shall not apply to a prescribed producer or a member of a prescribed class of producers.

(3) No producer shall sell milk or a milk product by retail unless he is a registered producer-retailer:

Provided that the provisions of this subsection shall not apply to a prescribed producer or a member of a prescribed class of producers.

(4) No registered person shall sell-

- (a) milk or a milk product otherwise than in accordance with the conditions imposed upon him on registration; or
- (b) milk of which he is not the producer:

Provided that a registered producer-retailer may with the consent of the Board sell milk acquired by him from the Board; or

- (c) a milk product which has not been manufactured or prepared by him from milk of which he is the producer:

Provided that a registered person who is the holder of a trading licence issued in terms of the Trades Licensing Act may sell- Cap. 393

- (i) cream such as is referred to in paragraph (i) of the proviso to subsection (1) and condensed, dried and evaporated milk; and
- (ii) any other milk product which has been imported into Zambia or has been acquired from or is the property of the Board.

*(As amended by G.N. No. 91 of 1964
and S.I. No. 176 of 1965)*

26. (1) An application for registration as a producer-wholesaler of milk or a milk product or as a producer-retailer shall be made to the Board within the time prescribed.

Registration, etc., of
producer-wholesalers
and producer-retailers

(2) An applicant for registration shall state in his application-

- (a) the address of the place at which he produces milk; and

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- (b) whether he wishes to be registered as a producer-wholesaler of milk or milk products or milk and milk products or as a producer-retailer; and
- (c) if he wishes to be registered as a producer-wholesaler of milk products, the milk products in respect of which he wishes to be registered; and
- (d) if he wishes to be registered as a producer-retailer-
 - (i) whether he wishes to sell milk or milk products or milk and milk products; and
 - (ii) the milk products, if any, he wishes to sell; and
 - (iii) the area within which he proposes to sell milk or milk products or milk and milk products; and
- (e) whether or not he is or his premises are registered in terms of the Dairies and Dairy Produce Act; and Cap. 230
- (f) such other particulars as may be prescribed.

(3) The Board may refuse to register an applicant for registration as a producer-retailer if the registration of the applicant would not, in the opinion of the Board, be conducive to the orderly and efficient marketing of the dairy produce in respect of which application for registration is made.

(4) The Board may register an applicant for registration subject to such reasonable conditions as the Board may deem expedient to impose.

(5) The Board may, with the consent or on the application of a registered person, vary the conditions subject to which the registered person was registered by the Board in terms of subsection (4).

(6) The Board shall cancel the registration of a registered person if the registered person applies to the Board for the cancellation of his registration.

(7) An applicant for registration whose application is refused by the Board in terms of subsection (3) or a registered person who is aggrieved by a condition imposed upon him on registration shall have a right of appeal to the Minister.

(8) The registration of a person in terms of this Act shall not have the effect of exempting him from any liability to register in terms of the Dairies and Dairy Produce Act. Cap. 230

(As amended by No. 32 of 1962 and S.I. No. 176 of 1965)

27. (1) The Board may refuse to buy butterfat, cream or milk delivered to a depot by a registered producer-wholesaler which does not conform with the standard of quality, if any, fixed in relation to the appropriate prescribed price for butterfat, cream or milk or the lowest standard of quality fixed in relation to the appropriate prescribed price for any class of butterfat, cream or milk, as the case may be.

Disposal of dairy
produce rejected by
Board

(2) If the Board refuses to buy butterfat, cream or milk referred to in subsection (1), the Board shall-

- (a) immediately advise the registered producer-wholesaler by whom the butterfat, cream or milk was delivered that the Board has rejected the butterfat, cream or milk; and
- (b) issue to the registered producer-wholesaler referred to in paragraph (a) a certificate of rejection stating the Board's reasons for rejecting the butterfat, cream or milk.

(3) Unless a registered producer-wholesaler by whom butterfat, cream or milk is delivered to the Board otherwise directs before or at the time of delivery, the Board may-

- (a) make use of any of the butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board for the benefit of the registered producer-wholesaler; or
- (b) return any butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board to the registered producer-wholesaler at his expense; or
- (c) destroy any butterfat, cream or milk of the registered producer-wholesaler which is rejected by the Board without paying him compensation.

(4) The Board shall issue a receipt for all butterfat, cream or milk delivered to the Board by a registered producer-wholesaler which the Board does not reject.

(5) The risk in any butterfat, cream or milk delivered to the Board by a registered producer-wholesaler shall not pass to the Board until issue of the Board's receipt.

PART VI GENERAL PROVISIONSPART VI

GENERAL PROVISIONS

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28. (1) If at any time it appears to the Minister that the Board has failed to comply with the provisions of this Act or a direction given to the Board in terms of this Act, he may, by notice in writing, require the Board to make good the default within a specified time.

Proceedings on failure of Board to comply with Act

(2) If the Board fails to comply with a notice referred to in subsection (1), the Minister may apply to the High Court for an order compelling the Board to remedy the default and the High Court may make such order on the application as it thinks fit.

(As amended by G.N. No. 91 of 1964)

29. (1) Subject to the provisions of any written law governing the public service, the Minister may for the purpose of this Act appoint persons as inspectors.

Appointment of inspectors

(2) With the consent of the President, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the public service or in the Zambia Police Force.

(3) With the consent of a local authority, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the employ of the local authority.

(4) With the consent of the Board, the Minister may confer all or any of the powers and impose all or any of the duties of an inspector under this Act upon any person or class of persons in the employ of the Board.

(As amended by G.N. No. 91 of 1964 and S.I. No. 176 of 1965)

30. (1) A person who-

Offences

- (a) obstructs an inspector in the performance of his duties or the exercise of powers conferred by or in terms of a provision of regulations or, on being required to do so, does not produce to an inspector or a police officer for inspection dairy produce or any books or records relating thereto which are in his possession or under his control; or
- (b) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or incomplete return or supplies false or incomplete information; or
- (c) contravenes or fails to comply with a provision of this Act or of regulations or with an order or direction made or given thereunder with which it is his duty to comply; or

- (d) does an act contrary to a condition imposed upon him on registration;

shall be guilty of an offence and liable-

- (i) on first conviction, to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding three months, or to such imprisonment without the option of a fine, or to both; and
- (ii) on a second or a subsequent conviction, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both.

(2) If a registered person is convicted of an offence in terms of this Act, the court convicting him may, on the application of the Board and in addition or as an alternative to any other penalty it may inflict, order the cancellation of his registration for the whole or such part of the current period of registration prescribed in terms of section *thirty-one* as the court may deem fit.

(As amended by Act No. 13 of 1994)

31. (1) The Minister may by regulation prescribe all matters which by this Act are required or are permitted to be prescribed or which in his opinion are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in the exercise of the powers conferred upon him by that subsection provide for-

- (a) the books and records to be kept and the returns and information to be furnished to the Board by registered persons and dealers; and
- (b) the form in which and the period within which the returns referred to in paragraph (a) shall be furnished; and
- (c) the information to be contained in returns referred to in paragraph (a) and the information and documents to be supplied in connection with applications for registration; and
- (d) the hearing and determination of appeals to the Minister for which provision is made in this Act and the making, return and forfeiture of deposits and the procedure to be followed in connection therewith; and
- (e) the inspection by inspectors of dairy produce and premises where dairy produce is produced, manufactured, handled, graded, treated, processed, prepared, sold, stored or dealt in; and

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- (f) the seizure by an inspector who shall issue a receipt therefor of books and documents and dairy produce which, in the opinion of the inspector, may afford evidence of a contravention of the provisions of this Act, and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with the provisions of this Act; and
- (g) the prescribing, whether by reference to the amounts delivered to the Board during any fixed period and the amounts used by the Board during any fixed period for different purposes or one or other of those factors, retrospectively or otherwise, of maximum, minimum or specified prices which shall be paid by the Board for butterfat, cream or milk delivered to the Board by registered producer-wholesalers in accordance with the provisions of this Act and the directions of the Board; and
- (h) the prescribing of maximum, minimum or specified prices-
 - (i) at which prescribed classes of dairy produce imported into or produced, manufactured or prepared in Zambia shall be sold; and
 - (ii) which shall be paid for prescribed classes of dairy produce produced, manufactured or prepared in Zambia; and
- (i) the prescribing of the periods during which persons who are registered in terms of section *twenty-six* shall, subject to the provisions of that section, remain registered and of matters ancillary or incidental thereto.

(3) The Minister may, in the exercise of the power conferred upon him by subsection (1), make different provision in respect of different classes of registered persons and dealers, different classes of appeals and different classes of dairy produce and make no provision in respect of particular classes of registered persons and dealers and particular classes of dairy produce.

(4) Nothing in this section shall be construed as precluding the Board from buying-

- (a) butterfat, cream or milk or other dairy produce otherwise than at a depot referred to in paragraph (a) of subsection (1) of section *fourteen*; or
- (b) butterfat, cream or milk delivered to a depot referred to in paragraph (a) of subsection (1) of section *fourteen* by a person who is not a registered producer-wholesaler;

at such prices as the Board may deem expedient.

(As amended by No. 32 of 1962 and G.N. No. 91 of 1964)

32. No information contained in any contract entered into by the Board in the exercise of the functions of the Board or in any return furnished to the Board shall, unless it is ordered to be disclosed by order of a competent court, be disclosed to any person, other than the Minister or an officer of the Board or the Department of Agriculture, without the permission of the Minister.

Information to be
confidential

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SCHEDULE

(Section 15)

POWERS OF BOARD

1. To acquire, establish and construct dairies, creameries, factories and other works within Zambia and to provide, maintain and operate distributing, handling and processing facilities and depots within or outside Zambia necessary or convenient for or ancillary to the exercise of the functions of the Board, and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests therein and rights over the same and concessions, grants, rights, powers and privileges in relation thereto.

(As amended by G.N. No. 91 of 1964)

2. To buy, take in exchange, hire or otherwise acquire movable property including vehicles, machinery, plant and other apparatus necessary or convenient for or ancillary to the exercise of the functions of the Board.

3. To maintain, alter and improve property acquired by the Board.

4. To apply for, buy or otherwise acquire patents, licences, concessions or the like conferring an exclusive or non-exclusive or limited right to use information or a process which may seem to the Board capable of being used for the purposes of the Board or the acquisition of which may seem to the Board calculated, directly or indirectly, to benefit the Board, and to use, exercise, develop and grant licences in respect of or otherwise turn to account rights, information and processes so acquired.

5. To carry out or enter into contracts for carrying out any work in connection with the production, handling, grading, treatment, processing, preparation, manufacture, purchase or sale, storage, import or export of dairy produce and ices and flavoured milk products.

6. To carry on the business of manufacturers of and dealers in ices and flavoured milk products.

7. To buy or otherwise acquire such quantities of dairy produce for sale or for storage or for such other purposes as the Board may think desirable and sell and otherwise dispose of such dairy produce as and when the Board thinks fit and generally to carry on the business of dealers in dairy produce and, in so doing, to act as agents for the sale of dairy produce and margarine.

8. To make rules regulating the terms and conditions of delivery to the Board and of the sale and disposal by the Board of dairy produce and ices and flavoured milk products.

9. To make rules in relation to the receipt, handling, treatment, storage and despatch of dairy produce and ices and flavoured milk products by the Board's agents.

10. To carry on the business of importers and exporters of dairy produce and ices and flavoured milk products.

11. To enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the Board's objects or any of them, and to obtain from such a government or authority rights, privileges and concessions which the Board may think it desirable to obtain, and to carry out, exercise and comply with such arrangements, rights, privileges and concessions.

12. To sell, exchange, lease, mortgage, pledge, dispose of, turn to account, or otherwise deal with any assets of the Board or any part thereof which are not required for the purposes of the Board for such consideration as the Board may determine:

Provided that the Board may create such mortgages, charges and liens upon all or any of its assets, whether present or future or required for the purposes of the Board or not, as may be required by the Land and Agricultural Bank of Zambia by way of security for a loan of five hundred and fifty thousand pounds which that Bank is hereby authorised to make to the Board in connection with the acquisition by the Board of the assets of the Co-operative Creameries of Northern Rhodesia Limited.

(As amended by No. 32 of 1962)

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13. To draw, make, accept, endorse, discount, execute and issue for the purposes of the business of the Board promissory notes, bills of exchange, bills of lading, securities and other negotiable and transferable instruments.

14. To insure against losses, damages, risks and liabilities which the Board may incur.

15. To make contracts and to enter into suretyships or give guarantees in connection with the exercise of the functions of the Board and to modify or rescind such contracts and to modify or rescind such suretyships or guarantees.

16. To raise moneys, temporarily or otherwise, by such means and for such purposes as the Minister may approve.

(As amended by G.N. No. 91 of 1964)

17. (1) To invest moneys of the Board not immediately required by the Board in such manner as the Board, with the approval of the Minister, acting on the advice of the Minister responsible for finance, may determine and to vary or realise investments so made.

(2) To acquire, hold and dispose of shares in co-operative societies registered under the Co-operative Societies Act and co-operative organisations outside Zambia engaged in the handling or marketing of dairy produce and the acquisition and disposal of equipment used for those purposes.

(As amended by G.N. No. 91 of 1964)

18. To pay to members of a committee of the Board who are not members of the Board and to persons in the Board's employ such remuneration and allowances and to grant such leave of absence and make such gifts, bonuses and the like to persons in the Board's employ as the Board may consider fit.

19. To provide pecuniary benefits for persons in the Board's employ on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for persons in the Board's employ and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

20. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for occupation by persons in the Board's employ.

21. To purchase land and construct thereon dwelling-houses for occupation by persons in the Board's employ.

22. To sell or lease dwelling-houses and land for residential purposes to persons in the Board's employ.

23. To make loans to persons in the Board's employ for the purpose of purchasing vehicles, tools or other equipment to be used by those persons in carrying out their duties.

24. To do anything for the purpose of improving-

(a) the skill, knowledge or usefulness of persons in the Board's employ; or

(b) the efficiency of the equipment of the Board or the manner in which the equipment is operated;

and in that connection to provide or assist other persons in providing facilities for training, education and research.

25. To introduce, develop and give effect to measures for-

(a) the improvement of, and the promotion of quality in, the production of dairy produce in Zambia such as the giving of prizes for specific or general competition in connection with the production, manufacture or preparation of dairy produce, the granting of money for the purposes of improving the quality of dairy livestock and the making of loans to registered persons for the purchase of equipment facilitating the production or handling of dairy produce; and

(b) the encouragement of the consumption of dairy produce within and outside Zambia.

(As amended by G.N. No. 91 of 1964)

26. To embark upon dairy research, to investigate problems affecting the dairy industry and to conduct experimental work for the purpose of improving the quality of dairy produce produced, manufactured or prepared in Zambia and for that purpose to purchase, maintain and operate experimental equipment.

(As amended by G.N. No. 91 of 1964)

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27. Generally to do all such things as are incidental or conducive to the exercise of the functions of the Board or incidental to the powers specified in this Schedule or which are calculated directly or indirectly to enhance the value of or develop the operations, undertakings and property of the Board.

SUBSIDIARY LEGISLATION

DAIRY PRODUCE MARKETING AND LEVY

CAP. 234

SECTION 31-THE DAIRY PRODUCE MARKETING AND LEVY (GENERAL) REGULATIONS

Regulations by the Minister

*Federal Government
Notices
149 of 1962
184 of 1962
Government Notice
91 of 1964
Statutory Instruments
335 of 1966
274 of 1967
36 of 1968
Act No.
13 of 1994*

1. These Regulations may be cited as the Dairy Produce Marketing and Levy (General) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"month" means one of the twelve parts into which a year is ordinarily divided in the calendar;

"prescribed area" means an area prescribed in regulation 3;

"Secretary" means the Secretary to the Dairy Produce Board.

(As amended by G.N. No. 91 of 1964)

3. (1) The areas prescribed for the purposes of subsection (1) of section *twenty-five* of the Act are the areas set out in the Second Schedule. Prescribed areas and prohibition of removal of milk

(2) No milk produced within an area prescribed in sub-regulation (1) shall be removed from the premises on which it is produced for any purpose other than for delivery to the Dairy Produce Board.

(3) For the purposes of sub-regulation (2), premises shall mean any division or subdivision of land used for the purpose of keeping cattle for production of milk or meat.

(S.I. No. 36 of 1968)

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4. (1) The dealer prescribed for the purposes of subsection (2) of section *two* of the Act is the Zambezi Co-operative Dairies, Limited. Prescribed dealers and producers

(2) The dealers or classes of dealers prescribed for the purposes of subsection (1) of section *twenty-five* of the Act are-

- (a) the Zambezi Co-operative Dairies, Limited;
- (b) dealers who, for the purposes of resale, buy cream, milk or skim milk from the dealer referred to in paragraph (a);
- (c) dealers to whom a registered producer-retailer sells cream, milk or skim milk in accordance with the conditions imposed upon him on registration.

(3) The class of producer prescribed for the purposes of subsections (2) and (3) of section *twenty-five* of the Act are those producers who do not sell milk or a milk product within a prescribed area.

(As amended by F.G.N. No. 184 of 1962
and G.N. No. 91 of 1964)

5. (1) An application in terms of subsection (1) of section *twenty-six* of the Act for registration of a producer-wholesaler or producer-retailer shall be made to the Board- Registration of producers

- (a) in the case of a person who, after the 18th May, 1962, becomes a producer-wholesaler or producer-retailer who is required in terms of section *twenty-five* of the Act to be registered, not less than ten days before the date he becomes such a producer;
- (b) in the case of a registered producer-retailer who wishes to apply for registration for the year following that in respect of which he is registered, after the 1st November and before the 15th December of the year in respect of which he is registered.

(2) In addition to the information specified in paragraphs (a) to (e) of subsection (2) of section *twenty-six* of the Act, the following particulars shall be stated by an applicant for registration in his application:

- (a) his full name and his postal address;
- (b) if within twelve months of the date of application he has acquired any premises where he produces milk or he is in the process of acquiring those premises, the name of the person from whom he has acquired or is acquiring, as the case may be, those premises;

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- (c) if he proposes to sell milk, the quantity of milk that he estimates he will sell each month;
- (d) if he proposes to sell any milk product, the quantity of each type of milk product he estimates that he will sell each month;
- (e) in the case of a person who wishes to be registered as a producer-wholesaler-
 - (i) the dairy, creamery or factory to which he proposes to supply the dairy produce in respect of which he wishes to be registered;
 - (ii) whether or not he proposes to deliver daily the dairy produce in respect of which he wishes to be registered and the proposed method of delivery;
- (f) in the case of a person who wishes to be registered as a producer-retailer-
 - (i) the name and address of any dealer within a prescribed area who has agreed to purchase dairy produce from him;
 - (ii) the type and quantity of any dairy produce which each dealer referred to in sub-paragraph (i) has agreed to purchase from him.

(3) On registration of an applicant for registration, the Board shall allocate a registration number to that producer and shall issue to him a certificate of registration showing the full name, address and registration number of the registered producer and the period in respect of which he is registered.

(4) Subject to the provisions of sub-regulation (5), a person who is registered in terms of section *twenty-six* of the Act shall remain registered-

- (a) in the case of a producer-wholesaler, for the period ending on the 31st December, 1967;
- (b) in the case of a producer-retailer, for the period of twelve months or part thereof ending on the 31st December of the year in respect of which the certificate of registration is issued;

unless his registration is cancelled in terms of subsection (5) of section *twenty-six* or subsection (2) of section *thirty* of the Act:

Provided that a producer-retailer who is first registered on or after the 1st September in any year shall remain registered for the period ending on the 31st December of the year following that in which he is first registered unless his registration is cancelled in terms of subsection (5) of section *twenty-six* or subsection (2) of section *thirty* of the Act.

(5) If a registered producer-retailer's application for registration for the year following that in respect of which he is registered is refused by the Board he shall, notwithstanding such refusal, remain registered until the 31st January of that year and if before that date he lodges with the Secretary, in terms of sub-regulation (1) of regulation 6, notice of his intention to appeal, together with the deposit, he shall remain registered until the Minister confirms or sets aside the refusal in terms of sub-regulation (5) of regulation 6.

(6) If a registered person who is aggrieved by a condition imposed upon him on registration lodges with the Secretary, in terms of sub-regulation (1) of regulation 6, notice of his intention to appeal, together with the deposit, the condition shall be suspended until the Minister confirms, varies or sets aside the condition in terms of sub-regulation (5) of regulation 6.

(As amended by F.G.N. No. 184 of 1962)

6. (1) A person whose application for registration as a producer-retailer is refused by the Board in terms of subsection (3) of section *twenty-six* of the Act or a registered person who is aggrieved by a condition imposed upon him on registration and who wishes to appeal to the Minister shall lodge with the Secretary notice of his intention to appeal, together with a deposit in the sum of one hundred and fifty fee units.

Appeals to the Minister

(2) The notice of appeal shall-

- (a) be in writing;
- (b) specify in detail the grounds on which the appeal is made;
- (c) be accompanied by any information or representations which the appellants wishes to tender in support thereof.

(3) The Board shall, on receipt of a notice of appeal, give its reasons in writing for refusing the application for registration as a producer-retailer or imposing the condition against which the appeal is made, as the case may be.

(4) The Secretary shall, within three weeks of receiving a notice of appeal, forward to the Minister the notice and the Board's reasons in writing.

(5) After taking into consideration the information and representations made in support of the appeal and the reasons submitted by the Board the Minister shall, within ninety days of the receipt by him of the notice and reasons forwarded in terms of sub-regulation (4)-

- (a) confirm or set aside the refusal; or

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- (b) confirm, vary or set aside the condition; as he thinks fit.

(6) If the Minister-

- (a) sets aside the refusal or varies or sets aside the condition, the sum of ten kwacha deposited in respect of the appeal shall be returned to the appellant;
- (b) confirms the refusal or condition, the sum of ten kwacha deposited in respect of the appeal shall, unless the Minister otherwise directs, be forfeited by the appellant and paid into the general revenues of the Republic in aid of the costs of the appeal.

*(As amended by G.N. No. 91 of 1964
and Act No. 13 of 1994)*

7. (1) A registered producer-retailer shall furnish to the Board a return showing the milk produced and the dairy produce sold by him each month.

Returns and records of
registered
producer-retailers

(2) The return referred to in sub-regulation (1) shall be furnished-

- (a) in the form prescribed in the First Schedule; and
- (b) not later than the twenty-eighth day of the month following that to which the return relates.

(3) In the return referred to in sub-regulation (1), the following information in relation to the month to which the return relates shall be contained:

- (a) the registration number of the producer-retailer;
- (b) the total quantity of milk produced during that month;
- (c) the total quantity of whole milk used by the producer for domestic purposes;
- (d) the quantity of whole milk separated by the producer;

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- (e) the quantity of dairy produce sold by the producer showing-
 - (i) the quantity of each type of dairy produce sold within a prescribed area;
and
 - (ii) the quantity of each type of dairy produce sold outside a prescribed area;
- (f) the name of each dealer to whom dairy produce was sold;
- (g) the quantity of each type of dairy produce sold to a dairy, creamery or factor and the name of such dairy, creamery or factory.

(4) A registered retailer shall keep a record which clearly shows his-

- (a) daily milk production and utilisation;
- (b) sales of milk and milk products.

(5) A registered producer-retailer who keeps a record or furnishes a return to the Board in terms of this regulation shall retain such record or a true copy of such return at the premises at which he produces or deals in the dairy produce in connection with which the record is kept or to which the return relates for a period of two years after the period to which the return or record refers.

(6) Every entry on a return furnished or a record kept in terms of this regulation shall be made in ink or indelible pencil.

8. (1) An inspector may-

Powers of inspectors

- (a) at any reasonable time enter any premises where dairy produce is produced, manufactured, handled, graded, treated, processed, prepared, sold, stored or dealt in;
- (b) examine books or documents relating to the production, manufacture, handling, grading, treating, processing, preparing or selling of or the dealing in dairy produce to ascertain the correctness of any return or other information required to be furnished to the Board;
- (c) seize any books or documents which in his opinion may afford evidence of a contravention of the provisions of the Act or of any regulations made thereunder.

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(2) An inspector shall, if so required, provide the owner of any books or documents seized in terms of paragraph (c) of sub-regulation (1) with a receipt for such books or documents.

(3) When exercising any powers conferred by this regulation an inspector shall, if so required, produce a written authority from the Minister.

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FIRST SCHEDULE

(Regulation 7 (2))

THE DAIRY PRODUCE MARKETING AND LEVY (GENERAL)

REGULATIONS

Return by a registered producer-retailer for the month of 19.....
 Registration No.....

Total whole milk produced during the month. litres
 Total whole milk used for domestic purposes (calves, household
 and servants). litres
 Total whole milk separated. litres

DAIRY PRODUCE SOLD OTHERWISE THAN TO A DAIRY, CREAMERY OR FACTORY

<i>Product</i>	<i>Within prescribed areas</i>	<i>Outside prescribed areas</i>
Whole milk sold litres litres
Fresh cream sold otherwise than to a dealer litres litres
Fresh cream sold to a dealer litres litres

Other dairy produce:

Names of dealers to whom dairy produce was sold:

DAIRY PRODUCE SOLD TO A DAIRY, CREAMERY OR FACTORY

<i>Name of dairy, creamery or factory</i>	<i>Product</i>	<i>Quantity litres/kilos</i>
.....		
.....		
.....		
.....		
.....		
.....		

I enclose a remittance of being the levy payable in terms of section 19 of the Dairy Produce Marketing and Levy Act.

Date Signed

Address

.....
.....

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SECOND SCHEDULE

(Regulation 3)

PRESCRIBED AREAS

1. Any area within forty-eight kilometres of the Kitwe, Chingola and Ndola Post Offices.
2. Any area within thirty-two kilometres of the Ridgeway (Lusaka) Post Office.
3. Any area within eight kilometres of the Kabwe Post Office.
4. Any area within five kilometres of the Mazabuka and Kafue Post Offices.

(S.I. No. 36 of 1968)

SECTION 31-THE WHOLE MILK POWDER (RETURNS) REGULATIONS

Statutory Instrument
95 of 1971

Regulations by the Minister

1. These Regulations may be cited as the Whole Milk Powder (Returns) Regulations. Title

2. (1) Any dealer who imports or deals in whole milk powder to an amount exceeding fifty metric tonnes in any calendar year shall furnish to the Manager of the Board a monthly return in respect of such importation or dealings. Returns required to be made by importer and dealer

(2) The return referred to in sub-regulation (1) shall be furnished-

- (a) in the form prescribed in the Schedule; and
- (b) not later than the fourteenth day of the month following that to which the return relates.

(3) In the return referred to in sub-regulation (1) the following information in relation to the month to which the return relates shall be contained:

- (a) the name of the person required to make the return;
- (b) the stocks of whole milk powder on hand on the first day of the month;
- (c) the orders for whole milk powder placed during the month and cancellation of such orders during the month;
- (d) the amount of whole milk powder imported during the month;
- (e) the amount of whole milk powder received during the month from importers; and
- (f) stocks of whole milk powder on hand at the end of the month.

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SCHEDULE

(Regulation 2)

THE WHOLE MILK POWDER (RETURNS) REGULATIONS

Manager,
Dairy Produce Board,
P.O. Box 124,
Lusaka

Name of Importer or Dealer
.....
Address
.....

WHOLE MILK POWDER RETURN FOR MONTH OF.....

In accordance with regulation 2 of the Whole Milk Powder (Returns) Regulations, we report as follows:

Metric Tonnes

1. Stock of whole milk powder on first day of month.
2. Orders placed for whole milk powder during month.
3. Orders for whole milk powder cancelled.
4. Importation of whole milk powder during month
(*applicable to importers only*).
5. Whole milk powder received during month from importers
(*applicable to dealers only*).
6. Stocks of whole milk powder at month end.

Date Signed
Designation.....

This return is required to be submitted by the 14th day of the month following
that to which this return relates.