

CHAPTER 46.

An Act to authorise certain payments out of the Exchequer to milk marketing boards in respect of certain milk; to extend the powers and vary the duties of such boards as to the making of payments or allowances to producers of milk, and in connection with approved arrangements for the sale of milk at reduced prices, and as to the manner in which moneys paid to the boards from the Exchequer are to be dealt with; and to extend the functions of consumers' committees in relation to milk marketing schemes, milk product marketing schemes and milk product development schemes. [28th July 1939.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Encouragement of production of quality milk.

Payments to producers and boards in respect of quality milk.

1.—(1) If at any time during the two years ending with the thirtieth day of September nineteen hundred and forty a producer registered under a milk marketing scheme—

(*a*) has sold, in accordance with the provisions of the scheme, any quality milk which was produced

by him in the area to which the scheme applies; or

(*b*) in pursuance of an agreement in that behalf with the board, has used any such quality milk in manufacturing, at a farm in his occupation, cheese in respect of which he was entitled under that agreement to receive a payment from the board,

the board may pay to him such sum, if any, as is prescribed in that behalf by the Schedule to this Act.

(2) A board—

(*a*) may make the payments referred to in subsection (1) of this section notwithstanding that there is nothing in the scheme authorising it so to do; and

(*b*) in cases in which that subsection applies, may, in such circumstances as it may from time to time determine, refrain from making payments, notwithstanding that the scheme requires payments to be made.

(3) Where a board has duly paid any sum under subsection (1) of this section in respect of any milk, the Minister shall pay to that board out of moneys provided by Parliament such sum, if any, as is prescribed in that behalf by the said Schedule:

Provided that no sum shall be payable under this subsection to a board in respect of any milk unless the milk was sold or, as the case may be, used during a period (hereafter in this Act referred to as "a period for which quality milk subsidy is payable") as to which the Minister is satisfied that the board has, with such exceptions as he may allow, made the payments referred to in subsection (1) of this section with respect to substantially all the milk to which that subsection applies sold or, as the case may be, used during that period.

(4) For the purposes of this Act—

(*a*) "quality milk" means accredited milk, standard milk, tuberculin tested milk, certified milk or milk from an attested herd;

(*b*) "milk from an attested herd" means milk produced from a cow comprised in a herd which, when the milk is produced, is an attested herd within the meaning of any scheme for the time being in force under section twenty of the Agriculture Act, 1937; 1 Edw. 8. & 1 Geo. 6. c. 70.

(*c*) milk shall be deemed to be accredited milk, standard milk, tuberculin tested milk, or certified milk, if, and only if, when the milk was sold or, as the case may be, used, the producer thereof was the holder, or entitled to the benefit, of a licence under the enactments relating to special designations authorising him to use the special designation "accredited," "standard," "tuberculin tested" or "certified," as the case may be, and lawfully used, or could lawfully have used, the special designation in question for the purposes of the sale of that milk:

Provided that, where such a licence has been granted to a registered producer (either originally or by way of renewal of an existing licence), he shall, if the board thinks fit, be deemed for the purposes of this definition to have been the holder of that licence as from such date earlier than the grant thereof as the board may direct;

(*d*) where, under the provisions of a milk marketing scheme requiring registered producers to make payments to the board in respect of milk, the payments which a producer is required to make in respect of any quality milk are less than the payments which he is required to make in respect of milk which is not quality milk, the board shall be deemed to pay the amount of the difference to the producer in respect of that milk, and references in this section to payments and the making thereof shall be construed accordingly.

(5) This section shall be deemed to have come into operation on the first day of October nineteen hundred and thirty-eight.

Cheap Milk Schemes.

Payments from Exchequer to boards in respect of milk sold at reduced prices.

2.—(1) If a milk marketing board satisfies the Minister that it has, in respect of any such period falling between the coming into operation of this section and the beginning of October nineteen hundred and forty as he may determine, exercised its powers in the manner necessary to give effect to any arrangements approved by the Minister and the Treasury for increasing the demand for milk by the sale thereof at a reduced price for consumption—

(*a*) by pupils who attend public elementary and secondary schools recognised by the Board of Education for the purposes of payment of grant or day schools recognised under the regulations of the Scottish Education Department, and by persons under the age of eighteen years who attend such other schools or institutions, or are undergoing such courses of instruction, as may be determined under the said arrangements; or

(*b*) by expectant or nursing mothers, or children under five years of age,

the Minister may, with the approval of the Treasury, pay to that board out of moneys provided by Parliament such sum as he thinks fit, not exceeding the amount which in his opinion represents the loss incurred by the board in carrying out the arrangements in respect of that period.

(2) As soon as may be after any arrangements have been approved by him for the purposes of this section in connection with a milk marketing scheme, the Minister shall lay particulars of the arrangements before Parliament.

24 & 25 Geo. 5. c. 51.

(3) Any arrangements approved before the passing of this Act under section eleven of the Milk Act, 1934, which could be approved for the purposes of this section shall, until superseded by arrangements so approved, have effect as if they were approved under this section and the said section eleven shall cease to have effect, except as respects things done before the coming into operation of this section.

(4) This section shall be deemed to have come into operation on the first day of October nineteen hundred and thirty-eight.

Exchequer Payments in respect of Milk used in Manufacturing Butter and Cheese.

Payments to be made from Exchequer to boards in respect of milk used in manufacturing butter and cheese.

3.—(1) If there is a butter price deficiency (as hereinafter defined) for any half-year to which this section applies, and, by means of such evidence as may be prescribed by regulations made by the Ministers with the approval of the Treasury, a milk marketing board satisfies the Minister—

(*a*) that any quantity of milk produced in the area to which the scheme applies, being milk delivered in accordance with—

(i) a contract for the sale of milk by a registered producer otherwise than to, or through the agency of, the board; or

(ii) a contract for the sale of milk by the board, either in its own right or as agent for a registered producer,

has, in that half-year, been used (elsewhere than at a farm) in manufacturing butter; or

(*b*) that any quantity of milk produced in that area by a registered producer has, in that half-year, been used by the board in manufacturing butter,

the Minister shall, subject to the following provisions of this Act, pay to the board out of moneys provided by Parliament a sum obtained by multiplying the butter price deficiency by the number of gallons comprised in that quantity of milk and dividing the result by the number of gallons of milk which, in the opinion of the Ministers, would on the average be used in Great Britain, in a winter half-year or a summer half-year, as the case may be, in manufacturing one hundredweight of butter.

(2) If there is a cheese price deficiency (as hereinafter defined) for any half-year to which this section applies, and, by means of such evidence as aforesaid, a milk marketing board satisfies the Minister—

(*a*) that any quantity of milk produced in the area to which the scheme applies, being milk delivered

in accordance with such a contract as is mentioned in paragraph (*a*) of the preceding subsection, has, in that half-year, been used (elsewhere than at a farm) in manufacturing cheese; or

(*b*) that any quantity of milk produced in that area by a registered producer has, in that half-year, been used by the board in manufacturing cheese; or

(*c*) that any quantity of milk produced in that area by a registered producer has, in that half-year, been used in manufacturing cheese at a farm in his occupation, being cheese in respect of which the producer is entitled, under an agreement between him and the board, to receive any payment from the board,

the Minister shall, subject to the following provisions of this Act, pay to the board out of moneys provided by Parliament a sum obtained by multiplying the cheese price deficiency by the number of gallons comprised in that quantity of milk and dividing the result by the number of gallons of milk which, in the opinion of the Ministers, would on the average be used in Great Britain, in a winter half-year or a summer half-year, as the case may be, in manufacturing one hundredweight of cheese.

Without prejudice to the generality of the powers of the Ministers to make regulations as to the evidence to be produced for the purposes of this subsection, the regulations may, in relation to milk used in manufacturing cheese at a farm, provide for the ascertainment of the quantity of the milk by means of the application to the quantity of the cheese of such formula as may be prescribed by the regulations in relation to the circumstances of the case.

(3) This section applies to the half-years comprised within the two years ending with the thirtieth day of September nineteen hundred and forty:

Provided that no payment shall be made to a board under this section in respect of any milk produced in the first of those years unless the milk was produced during a period for which quality milk subsidy is payable to the board.

(4) Any sum paid to a board under sections one to three of the Milk Act, 1934, in respect of milk produced in any period in the first of the said years for which quality milk subsidy is payable to that board shall be repaid to the Minister and paid by him into the Exchequer.

(5) In this and the two next succeeding sections, the expression " cheese " does not include soft curd cheese or cream cheese.

Limitation of quantity of milk in respect of which Exchequer payments may be made.

4.—(1) The total quantity of milk in respect of which payments under the last preceding section may be made to a board by reason of the fact that milk has, in any year, been used in manufacturing butter or cheese, shall not exceed the board's proportion of the standard quantity of butter milk, or, as the case may be, of cheese milk, for that year :

Provided that, if, in any year for the summer half-year of which there is both a butter price deficiency and a cheese price deficiency, the following conditions are satisfied in the case of any board, that is to say—

(*a*) the quantity of milk used for manufacturing butter or the quantity of milk used for manufacturing cheese (being, in either case, milk in respect of which payments can, or, but for this subsection, could, be made under the last preceding section) exceeds the board's proportion of the standard quantity of butter milk or of cheese milk, as the case may be; and

(*b*) the quantity of milk used for manufacturing cheese or, as the case may be, butter (being milk in respect of which payments can be made under the last preceding section), falls short of the board's proportion of the standard quantity of cheese milk or of butter milk, as the case may be,

the Minister shall pay to the board out of moneys provided by Parliament in respect of the excess mentioned in paragraph (*a*) of this proviso, or the deficiency mentioned in paragraph (*b*) of this proviso, whichever is the smaller,—

(i) a sum obtained by multiplying the butter price deficiency for the said summer half-year by the number of gallons comprised in the said excess, or, as the case may be, the said deficiency,

and dividing the result by the number of gallons which, in the opinion of the Ministers, would on the average be used in Great Britain in a summer half-year in manufacturing one hundredweight of butter; or

(ii) a sum obtained by multiplying the cheese price deficiency for that half-year by the number of gallons comprised in the said excess, or, as the case may be, the said deficiency, and dividing the result by the number of gallons which, in the opinion of the Ministers, would on the average be used in Great Britain in a summer half-year in manufacturing one hundredweight of cheese,

whichever of those sums is the smaller.

(2) For the purposes of this section, the standard quantity of butter milk and the standard quantity of cheese milk for any year shall each be taken to be one hundred and twenty-five million gallons.

(3) The Ministers shall by order determine the proportions in which the standard quantity of butter milk for any year and the standard quantity of cheese milk for any year are to be respectively allocated to the several milk marketing boards; and the proportion of any such standard quantity which is so allocated to any such board shall be deemed, for the purposes of subsection (1) of this section, to be that board's proportion of that standard quantity.

An order under this subsection with respect to any year may be varied by a subsequent order of the Ministers made before the beginning of, or after the end of, that year; but no such order shall be made after the end of the year unless it appears to the Ministers that it can be made without lessening the amount payable under the last preceding section to any milk marketing board in respect of that year.

Any order under this subsection shall, as soon as may be after the making thereof, be laid before Parliament, and if either House of Parliament, within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

Meaning of "butter price deficiency" and "cheese price deficiency."

5.—(1) Before, or as soon as may be after, the end of each half-year in the two years ending with the thirtieth day of September nineteen hundred and forty, the Ministers shall cause to be computed, in accordance with such rules as they may make with the approval of the Treasury, the price which in their opinion fairly represents the average of the prices per hundredweight at which, in the six months beginning with the first day of the month immediately preceding the beginning of the half-year, such descriptions of imported butter as are specified in the rules were sold by wholesale by the importers thereof on such markets in Great Britain as may be so specified and the price which in their opinion fairly represents the average of the prices per hundredweight at which, in the said six months, such descriptions of imported cheese as are specified in the rules were sold by wholesale by the importers thereof on such markets in Great Britain as may be so specified:

Provided that if, in the case of any board, part only of the half-year beginning with the first day of October nineteen hundred and thirty-eight, or part only of the half-year beginning with the first day of April nineteen hundred and thirty-nine, was a period for which quality milk subsidy is payable to the board, separate computations shall be made in relation to that board for that half-year, and those computations shall be made, not by reference to the six months beginning with the first day of the month immediately preceding the beginning of the half-year, but by reference to a period beginning one month before the beginning of the said part of the half-year, and ending one month before the end thereof.

(2) If the first of the said prices is less—

(*a*) in the case of a winter half-year, than one hundred and twenty-five shillings per hundredweight; or

(*b*) in the case of a summer half-year, than one hundred and fifteen shillings per hundredweight,

there shall, for the purposes of the two last preceding sections, be taken to be a butter price deficiency for that half-year of an amount equal to the difference; and if the second of the said prices is less—

(i) in the case of a winter half-year, than sixty-seven shillings and sixpence per hundredweight; or

(ii) in the case of a summer half-year, than sixty-two shillings and sixpence per hundredweight,

there shall, for the said purposes, be taken to be a cheese price deficiency for that half-year of an amount equal to the difference.

Miscellaneous and General.

Amendments of Milk Marketing Schemes.

6.—(1) The provisions of the Milk Marketing Scheme, 1933, which relate to the manner in which, in certain circumstances, sums are to be debited and credited by the board to the various regions constituted by that scheme shall, in relation to milk sold in accordance with any arrangements approved under section eleven of the Milk Act, 1934, under section seven of the Milk (Amendment) Act, 1937, or under section two of this Act, have effect and be deemed always to have had effect as if—

1 Edw. 8. & 1 Geo. 6. c. 66.

(*a*) the board actually received the regional price in respect of the sale of that milk; and

(*b*) any sums allowed by the board in respect of that milk (being sums which it would not have allowed had the milk been milk to which no such arrangements applied) were a liability of the board.

(2) It shall be and shall be deemed always to have been within the powers of any milk marketing board, for the purpose of giving effect to any arrangements approved as aforesaid, notwithstanding anything in the scheme and subject to such conditions as the board thinks fit, to pay or allow to suppliers of milk, or any local authority concerned, such sum in respect of each gallon of milk sold as the board may from time to time determine.

The provisions of this subsection shall be in addition to and not in derogation of the provisions of section twelve of the Milk Act, 1934, and section seven of the Milk (Amendment) Act, 1937, extending the functions of milk marketing boards.

(3) If a board which receives any payments under this Act from the Minister satisfies the Minister that the provisions of the scheme regulating the manner in which sums received by the board are to be dealt with do not operate so as to produce an equitable and convenient result in relation to such payments, the Minister may authorise the board, notwithstanding anything in the scheme, to deal with the payments in such manner as the Minister and the board may agree to be calculated to produce such a result.

Extension of functions of consumers' committees. 23 & 24 Geo. 5. c. 31.

7.—(1) Any consumers' committee may be brought into consultation under subsection (1) of section thirteen of the Agricultural Marketing Act, 1933, by the board administering a milk marketing scheme, a milk product marketing scheme or a milk product development scheme, and the functions of consumers' committees shall be extended accordingly.

(2) The board administering a milk marketing scheme, milk product marketing scheme or milk product development scheme shall, before exercising any powers conferred on it by the scheme for regulating in any respect the price at which or the terms on which the product, or any description or quantity thereof, may be sold by a registered producer, give to the consumers' committee having jurisdiction with respect to the area to which the scheme applies a written notice that it is considering whether, and if so how, to exercise those powers, and shall give to that committee an opportunity of making representations in the matter and consider any representations made in the matter by that committee; and the functions of consumers' committees shall be extended accordingly.

Financial provisions.

8. The administrative expenses incurred for the purposes of this Act by the Minister of Agriculture and Fisheries and the Secretary of State shall be defrayed out of moneys provided by Parliament.

Interpretation, &c.

9.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say—

"enactments relating to special designations" means section three of the Milk and Dairies (Amendment) Act, 1922, any order made under 12 & 13 Geo. 5. c. 34.

1 & 2 Geo. 6. c. 56.

that section, section twenty-one of the Food and Drugs Act, 1938, and the provisions of any milk and dairies regulations made by virtue of the said section twenty-one;

" half-year " means a summer half-year or a winter half-year;

" milk " means cows' milk but does not include separated milk;

" milk marketing scheme ", " milk product marketing scheme" and "milk product development scheme" mean respectively an agricultural marketing scheme regulating the marketing of milk, an agricultural marketing scheme regulating the marketing of a milk product, and a development scheme under Part II of the Agricultural Marketing Act, 1933, for organising the production of a milk product, and " milk marketing board " shall be construed accordingly;

" milk product " means any article of food or drink wholly or partly manufactured or derived from milk;

" the Ministers " means the Minister of Agriculture and Fisheries and the Secretary of State acting in conjunction;

" the product " means, in relation to a marketing scheme, the regulated product and, in relation to a development scheme, the product for organising the production of which provision is made by the scheme;

" registered producer " means, in relation to a milk marketing scheme, a person registered under that scheme or a personal representative, trustee, committee or other person to whom the business of a person so registered is transferred and who is authorised under the scheme to do without being so registered anything in relation to that business which the person so registered might have done;

" the scheme ", in relation to a board, means the scheme which that board administers;

" summer half-year " means a period of six months beginning with the first day of April;

" winter half-year " means a period of six months beginning with the first day of October;

" year " means a period of twelve months beginning with the first day of October;

and other expressions have the same meanings as in the Agricultural Marketing Act, 1931. 21 & 22 Geo. 5. c. 42.

(2) For the purposes of this Act, a farm shall be deemed to include the farmhouse and all buildings occupied together with the farm, but not to include any premises which for the time being are factory premises approved by the board for the purposes of any provisions of a milk marketing scheme relating to reduced prices or rebates where milk is subjected to a process of manufacture upon factory premises so approved.

(3) Any functions conferred by or under any of the provisions of this Act on the board administering a scheme shall, for the purposes of that scheme, be deemed to be conferred on the board by the scheme.

10.—(1) This Act may be cited as the Milk Industry Act, 1939. Short title and extent.

(2) This Act shall not extend to Northern Ireland.

Section 1.

SCHEDULE.

PAYMENTS IN RESPECT OF QUALITY MILK.

1. The sums which may under section one of this Act be paid to a producer of quality milk, and the sums which are to be paid under the said section by the Minister to a board in respect of such milk, shall be ascertained by reference to the tables at the end of this Schedule.

2. The first of the said tables relates to milk produced in England which is dealt with—

(*a*) by being sold under a sale which is not, under the Milk Marketing Scheme, 1933, and the determinations of the board thereunder, to be treated as a sale by retail or semi-retail for the purposes of that scheme; or

(*b*) by being used, in pursuance of an agreement in that behalf with the board, in manufacturing cheese at a farm in the occupation of the registered producer in question,

and to milk produced in Scotland which is dealt with—

(i) by being sold to or through the milk marketing board in question; or

(ii) by being used, in pursuance of an agreement in that behalf with the milk marketing board in question, in manufacturing cheese at a farm in the occupation of the registered producer in question,

and the second of the said tables relates to other milk.

3. The figures in the second and third columns of the said tables represent pence per gallon of milk.

4. The second column of each of the said tables specifies the sums which may be paid by a board to producers of the kinds of milk specified in the first column of each of those tables.

5. The third column of each of the said tables specifies the payments which are to be made by the Minister to a board in respect of milk of the kinds specified in the first column of the said tables.

TABLE I.

Kind of Milk.	Scale of payments by boards.	Scale of Exchequer contributions.
All Tuberculin Tested or Certified Milk, and milk from an attested herd which is Accredited or Standard Milk - -	2¼	1¼
Accredited or Standard Milk which is not Tuberculin Tested or Certified Milk and is not milk from an attested herd - -	1¼	¾
Milk from an attested herd which is not Accredited, Standard, Tuberculin Tested or Certified Milk - -	1	½

TABLE II.

All Tuberculin Tested or Certified Milk, and milk from an attested herd which is Accredited or Standard Milk - - -	1¼	¾
Accredited or Standard Milk which is not Tuberculin Tested or Certified Milk and is not milk from an attested herd -	1	⅝

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