

New Zealand.



ANALYSIS.

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1919, No. 17.—*Local and Personal.*

AN ACT to confer Additional Powers on the Corporation of the City of Wellington in relation to the Inspection and Control of the Milk-supply of the City of Wellington and other Matters. Title.
[4th November, 1919.]

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

1. This Act may be cited as the Wellington City Milk-supply Act, 1919. Short Title.

2. In this Act, if not inconsistent with the context,—

“City” means the City of Wellington or any city of which it shall form part:

“Corporation” means the Mayor, Councillors, and Citizens of the City of Wellington:

“Council” means the Wellington City Council:

“Dairy” means (a) a milk-house, milk-shop, dairy, factory, or any other place where milk is collected, deposited, treated, separated, prepared, or manufactured, or is sold or offered or exposed for sale; and includes (b) a farm, stockyard, milking-yard, paddock, shed, stable, stall, and any other place where cows are depastured, milked, or kept: Interpretation.

"District Fund" means the District Fund as defined by the Municipal Corporations Act, 1908 :

"Prescribed" means prescribed by by-law made under the provisions of this Act :

"Milk" includes cream, but does not include condensed or dried milk :

"The Milk-supply Regulations, 1918," means the regulations cited as such and made under the War Regulations Act, 1914, on the tenth day of September, nineteen hundred and eighteen.

Council to have power to carry on works or business.

3. It shall be lawful for the Council to do all or any of the following things :—

(a.) To buy and sell milk, and to manufacture and sell butter and other milk-products and ice :

(b.) To provide for the storage in cool chambers of milk, butter, and other products of milk, and other articles of human food of whatsoever kind or nature :

(c.) Generally to carry on the business of a dealer in milk and butter :

(d.) To buy and sell fodder for dairy cattle, and dairy utensils :

(e.) To carry on business as a dairy-farmer.

Council to have power to appoint servants, and take or purchase lands, buildings, plant, machinery, &c.

4. For the purposes of the last preceding section the Council may from time to time, in such manner and on such terms as it thinks fit,—

(a.) Appoint managers, engineers, agents, workmen, servants, and inspectors :

(b.) Purchase or lease or take under the provisions of the Public Works Act, 1908, or otherwise acquire any land required for the purposes of this Act, and sell and dispose of the same when no longer required, and purchase or sell stock :

(c.) Construct, erect, lease, or purchase any buildings, plant, machinery, tramways, railway-sidings, and other appliances or works of any description, and sell or otherwise dispose of the same when no longer required :

(d.) Maintain and work any such buildings, plant, machinery, tramway, railway-siding, or other appliances required for the manufacture, supply, transport, and delivery of milk, butter, and other products as aforesaid ; or for providing cool storage for milk, butter, and other products of milk, and other articles of human food of whatsoever kind or nature.

Power to borrow money.

5. In order to provide funds for the payment of all compensation-moneys or purchase-moneys payable in respect of any land or buildings or stock taken or purchased as aforesaid, or for the construction or erection or acquisition of buildings, plant, machinery, tramways, railway-sidings, or other appliances or works required for the purposes of this Act, or for advances to farmers supplying milk to the Corporation, or for moneys provided from the District Fund for all or any of the foregoing purposes, the Council may from time to time borrow moneys by way of special loan raised under the Local Bodies' Loans Act, 1913, by special order and without taking the steps

Vol. 1919, p. 328, sec. 3.
Contract—Sale of goods —
Contt to supply milk and
cream — Clause excusing
perfe—Disease, inevitable ac-
cident, drought or other con-
ditions preventing perfe. —
Excuses limited to causes
ejusdem generis: Wellington
City Corporn v. Wellington
Milk Vendors Assn. (1923)
N.Z.L.R. C.A. 305.

1926

described in sections eight to twelve of the Local Bodies' Loans Act, 1913.

6. (1.) After the passing of this Act it shall not be lawful for any person, whether as principal, agent, or otherwise (other than the Corporation and its servants or agents),—

Corporation to have monopoly.

(a.) To sell milk in the city; or

(b.) To deliver milk in the city in pursuance of a contract of sale made, whether within the borough or elsewhere; or

(c.) To bring into the city for use, consumption, or sale milk purchased outside the city; or

(d.) To have milk in his possession for sale in the city—

save under a license issued in that behalf by the Council and in accordance with the terms and conditions thereof.

(2.) Nothing in this Act shall make it an offence to sell milk for consumption on the premises of the seller, or to have possession of milk for the purposes of such a sale, provided such milk is purchased from the Council or its licensees.

(3.) Every license granted under the Milk-supply Regulations, 1918, which is subsisting or in force on the commencement of this Act shall, subject to the provisions of this Act, enure for the purposes of this Act as fully and effectually as if it had been granted under this Act, and accordingly shall, when necessary, be deemed to have been so granted.

(4.) The period of every such license is hereby extended until the eighth day of July, nineteen hundred and twenty-two, subject to the due observance and performance of the terms and conditions of such license.

(5.) The term of the several agreements made between the Corporation and the milk-vendors is hereby extended until the eighth day of July, nineteen hundred and twenty-two.

7. (1.) For the purpose of securing for the inhabitants of the city an adequate supply of milk of good quality and at a reasonable price the Council may, subject to the provisions of section six hereof, grant, refuse, or revoke any such license as aforesaid, and may, in granting any such license, grant it on such terms and conditions as the Council thinks proper for the purposes aforesaid.

Power to grant, refuse, and revoke licenses.

(2.) By such terms and conditions the Council may limit the exercise of the license to a specified portion of the city only.

(3.) Any person dissatisfied with the decision of the Council in refusing to grant or in revoking or cancelling any license under this section may appeal on summons to a Judge in Chambers, and the decision of such Judge on such appeal shall be final.

8. Every person who is knowingly concerned in any breach, by himself or any other person, of the terms or conditions of any such license as aforesaid shall be guilty of an offence against this Act and shall be liable accordingly.

Breach of conditions of license.

9. Every person who wilfully commits any breach of contract with the Corporation in respect of the sale or delivery of milk, and every other person who is knowingly concerned in any such breach, shall be guilty of an offence against this Act and shall be liable accordingly.

Offence by supplier.

Licensees not to skim milk or sell skimmed milk.

10. (1.) No person licensed to sell milk under the provisions of this Act, or the servant or agent of such licensee, shall treat any milk so that the same shall be deemed to be adulterated within the meaning of section fifteen of the Sale of Food and Drugs Act, 1908.

(2.) No person licensed to sell milk under the provisions of this Act, or the servant or agent of such licensee, shall sell or have in his possession for sale any milk that is in such a condition that it is deemed to be adulterated under the provisions of section fifteen of the Sale of Food and Drugs Act, 1908.

Power to advance moneys to dairy-farmers.

11. (1.) The Council may, out of moneys belonging to the Milk Account, advance moneys to any dairy-farmer supplying milk to the Corporation under contract for the purposes of improving the conditions relating to the production of milk on his dairy, the purchase of stock and plant, the provision of water-supply, the sanitary improvement of the dairy, or the construction of necessary buildings and erections for dairy purposes.

(2.) Such advances may be secured on instruments by way of security under the Chattels Transfer Act, 1908, over stock, with or without collateral security by way of first or second mortgage of land, or on first mortgage of land.

(3.) No advance shall exceed in amount sixty per centum of the value of stock and land comprised in the instrument by way of security or mortgage and over which such instrument or mortgage is a first charge.

(4.) The value of stock comprised in any security and the value of land comprised in any mortgage shall be fixed by a valuer appointed by the Council, and his report as to value shall be conclusive.

(5.) Every instrument by way of security and every mortgage securing moneys advanced under the provisions of this Act shall contain the following covenants on the part of the borrower:—

(a.) To expend the moneys advanced for one or more of the purposes specified in subsection one of this section:

(b.) To use and cultivate his farm as a dairy according to the best practice obtaining in his district:

(c.) To supply to the Corporation under contract executed before or contemporaneously with any such instrument or mortgage all milk produced on his farm, provision being made in each case for a minimum daily supply under such contract:

(d.) Such other reasonable covenants as the Council thinks fit.

(6.) Every such instrument shall, in addition to usual conditions as to repayment, provide that all moneys owing shall be repayable immediately on default in observance or performance of any of the covenants mentioned in paragraphs (a), (b), and (c) of subsection five of this section.

Supply of milk from dairies in and adjacent to the city.

12. (1.) Notwithstanding anything hereinbefore contained, milk produced at dairies in the city or situated within two miles of the city may be sold within the city, subject to the following conditions:—

(a.) That any person supplying milk under the provisions of this section shall keep an exact record of the milk

obtained by him at his dairy, and of the milk sold by him in the city, and shall from time to time furnish to the Council returns in the prescribed manner and form, verified by a statutory declaration, showing how much milk he has from time to time sold, and shall pay such fee, not exceeding two guineas per annum, as the Council shall prescribe:

- (b.) That any person so supplying milk shall from time to time be required by the Council to furnish samples of milk to the Council at any place to be fixed in the license granted under paragraph (c) of this section:
- (c.) That no person shall sell milk in the city pursuant to the provisions of this section unless he is the holder of a license granted for that purpose by the Council:
- (d.) That no person shall under any license granted under paragraph (c) of this section sell more than thirty gallons of milk in any one day.

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

(3.) Every license granted under the Milk-supply Regulations, 1918, shall be subject, not only to the exceptions contained therein, but also to any license granted pursuant to the provisions of this section.

13. The Council may, subject to the approval of the Minister charged with the administration of the Hospitals and Charitable Institutions Act, 1909, pay out of its District Fund such money as it thinks fit to such persons as it thinks fit for the assistance and development of any scheme to provide visiting nurses for the city.

Council may subsidize visiting nurses.

14. The Council may, out of its District Fund, purchase milk for the purpose of supplying the same to the poor, and may supply the same free or at such reduced charges as it thinks fit to such persons as it thinks fit.

Council may supply milk to the poor.

15. (1.) All moneys received under the provisions of this Act shall be paid into a separate account, to be called "The Milk Account," and all expenses of administering this Act shall be paid out of that account.

Finance.

(2.) The provisions of section one hundred and eight of the Municipal Corporations Act, 1908, shall extend and apply to the separate account kept under this Act.

16. Every person is liable to a fine not exceeding ten pounds who, directly or indirectly, by himself, his agent, or servant,—

Offences.

- (a.) Resists or wilfully obstructs any officer under this Act in the performance of his duty; or
- (b.) Refuses to give information or gives false information in answer to any inquiry made by any such officer in the performance of his duty; or
- (c.) Commits any breach of any of the provisions of this Act.

17. Inspectors under this Act appointed with the approval of the Minister of Public Health shall, so far as relates to the milk-

Powers of inspectors.

supply of the city, have the powers of an officer within the meaning of the Sale of Food and Drugs Act, 1908.

Power to make
by-laws.

18. The Council may, subject to the approval of the Minister of Public Health, make by-laws for the following purposes:—

- (a.) For securing the sanitary construction and cleanliness of dairies and milk-shops, and of milk-vessels used in dairies and milk-shops, within the city :
- (b.) Prescribing precautions to be taken for protecting milk against deterioration, infection, or contamination, and regulating or prohibiting the sale of milk in cases where the public health would be likely to be endangered by such sale :
- (c.) Regulating the issue of licenses under the provisions of this Act and the fees payable thereunder :
- (d.) Prohibiting the sale or purchase of milk except for coupons issued by the Corporation :
- (e.) Providing for the issue and control of such coupons.

Provisions of the
Municipal
Corporations Act
as to by-laws to
apply.

Powers to be
additional.

19. The provisions of sections three hundred and forty-eight to three hundred and fifty-one inclusive of the Municipal Corporations Act, 1908, shall be read together with and form part of this Act.

20. The powers to make by-laws vested in the Council by the provisions of this Act shall be in addition to all powers to make by-laws or to make regulations which are now or hereafter may be vested in the Council under or by virtue of the Municipal Corporations Act, 1908, or any other Act.

Repeals.

21. The Wellington City Milk-supply Act, 1910, sections three and six of the Wellington City Empowering and Amendment Act, 1911, and the Wellington City Milk-supply Amendment Act, 1914, are hereby repealed.
