

No. 28 of 1972

AN ORDINANCE

**To amend the *Milk Authority Ordinance 1971*, as amended
by the *Milk Authority Ordinance 1972*.**

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seal of Government (Administration) Act 1910-1972*.

Dated this third day of August, 1972.

ROHAN DELACOMBE
Administrator.

By His Excellency's Command,

RALPH J. HUNT
Minister of State for the Interior.

MILK AUTHORITY ORDINANCE (No. 2) 1972

1.—(1.) This Ordinance may be cited as the *Milk Authority Ordinance (No. 2) 1972*.^{*} Short title and citation.

(2.) The *Milk Authority Ordinance 1971*,[†] as amended by the *Milk Authority Ordinance 1972*,[‡] is in this Ordinance referred to as the Principal Ordinance.

(3.) Section 1 of the *Milk Authority Ordinance 1972* is amended by omitting sub-section (3.).

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Milk Authority Ordinance 1971-1972*.

2. Section 22 of the Principal Ordinance is amended by omitting sub-section (8.). Wholesaler's Licences.

3. Section 23 of the Principal Ordinance is amended by omitting sub-section (9.). Vendor's Licences and Vendor's Permits.

4. Section 24 of the Principal Ordinance is amended by omitting sub-section (7.). Retailers Licences.

5. Section 25 of the Principal Ordinance is amended by omitting sub-section (6.). Vending Machines.

^{*} Notified in the *Commonwealth Gazette* on 4 August 1972.

[†] Ordinance No. 23, 1971.

[‡] Ordinance No. 15, 1972.

6. Section 30 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Complaints &c.
in respect of
conduct of
licensees or
permittees.

“30.—(1.) For the purposes of this section, each of the following matters is a ground for complaint against the holder of a licence or Vendor's Permit, that is to say:—

- (a) that he is not providing service regularly;
- (b) that he is not exercising due skill, care and consideration in carrying out his business;
- (c) that his conduct in the course of his business is likely to affect adversely the operations of other holders of licences or permits or the rights or expectations of consumers of milk.

“(2.) Where a person believes that he has grounds for complaint against the holder of a licence or Vendor's Permit, that person may, by instrument in writing, lodge a complaint with the Secretary to the Authority.

“(3.) Subject to the next succeeding sub-section, the Secretary to the Authority—

- (a) shall, on receipt of a complaint lodged in pursuance of the last preceding sub-section; and
- (b) may, where, from information in his possession, it appears that grounds for complaint exist against the holder of a licence or Vendor's Permit,

by notice in writing, call on the holder of the licence or Vendor's Permit and, where the matter is the subject of a complaint, the complainant, within twenty-one days after the date of the notice, to make representations orally or in writing in connexion with the matter.

“(4.) Where it appears to the Secretary that a matter to which, but for this sub-section, the last preceding sub-section would apply warrants an inquiry by the Authority without delay, the Secretary shall refer the matter to the Authority without calling for representations to be made to him in connexion with the matter.

“(5.) The Secretary to the Authority shall consider any representations made in pursuance of sub-section (3.) of this section and, unless he considers that the matter is sufficiently serious to warrant an inquiry by the Authority or that the matter discloses a ground for the revocation of a licence, shall attempt to settle any differences between parties arising out of the matter.

“(6.) If, after considering any representations made in pursuance of sub-section (3.) of this section—

- (a) the Secretary to the Authority considers that the matter is sufficiently serious to warrant an inquiry by the Authority;
- (b) the matter discloses a ground for the revocation of a licence; or

- (c) the parties do not agree to a settlement of the differences arising out of the matter proposed by the Secretary to the Authority,

the Secretary to the Authority shall refer the matter to the Authority.”.

7. Section 31 of the Principal Ordinance is amended—

Revocation of
licences or
permits.

- (a) by omitting paragraph (f) of sub-section (1.) and inserting in its stead the following paragraph:—

“(f) in the case of a Vendor’s Licence or Vendor’s Permit, that the holder does not have the sole use, management and control of the business in respect of which the licence or permit was granted;” and

- (b) by adding at the end of sub-section (1.) the following paragraph:—

“(k) that the holder of the licence or permit is in breach of an order made under sub-section (1.) of the next succeeding section.”.

8. Section 32 of the Principal Ordinance is amended—

Inquiries by
Authority into
refusals to
grant, and the
revocation of,
licences or
permits or into
complaints, &c.

- (a) by omitting from sub-section (1.) the word “complaint” and inserting in its stead the word “matter”;

- (b) by omitting from sub-section (2.) the words “the complainant” and inserting in their stead the words “a complainant”; and

- (c) by omitting from sub-section (4.) the word “complaint” and inserting in its stead the word “matter”.

9. After section 32 of the Principal Ordinance the following section is inserted:—

“32A.—(1.) Where, in pursuance of the last preceding section, the Authority holds an inquiry into a matter that has been referred to it in pursuance of sub-section (4.), or sub-section (6.), of section 30 of this Ordinance, being a matter relating to operations on the part of the holder of a licence or permit under this Ordinance that are likely to affect adversely the holders of other licences or permits or the expectations of consumers or are likely to disrupt the supply or distribution of milk in the Territory, the Authority may make an order restraining the holder of the licence or permit, as the case requires, from continuing those operations.

Orders
pending
investigation
of
complaints, &c.

“(2.) A copy of an order made under the last preceding sub-section shall be served on the holder of the licence or permit whose name is specified in the order.

“(3.) An order made under sub-section (1.) of this section has force and effect from and including the date on which a copy of the order is served on the holder of a licence or permit in accordance with the last preceding sub-section until the expiration of one month after that date or the making by the Authority of a decision on the matter, whichever first occurs.”.

10. After section 34 of the Principal Ordinance the following section is inserted:—

Control of
packaging of,
and prices to be
charged for,
specified milk
products.

“34A.—(1.) In this section and in the regulations, a reference to a specified milk product shall be read as a reference to a product that—

- (a) is milk within the meaning of this Ordinance; and
- (b) is specified in regulations made by virtue of the next succeeding sub-section.

“(2.) The regulations may—

- (a) make provision prescribing permitted types and sizes of containers in which specified milk products may, in specified circumstances, be sold; and
- (b) make provision prescribing the price at which a specified milk product may, in specified circumstances, be sold.

“(3.) Without limiting the generality of the last preceding sub-section, the power to make regulations by virtue of that sub-section extends to the making of regulations making different provision in relation to different specified milk products according to—

- (a) whether the person by whom a specified milk product is sold is the holder of a licence or a Vendor's Permit;
- (b) where a person by whom a specified milk product is sold is the holder of a licence, the class of licence held by him;
- (c) the class of persons in which a person to whom a specified milk product is sold is included;
- (d) where a person to whom a specified milk product is sold is the holder of a licence or a Vendor's Permit the class of licence or permit held by him;
- (e) whether a specified milk product is sold in bulk or otherwise; and
- (f) where a specified milk product is sold otherwise than in bulk, the type and size, or types and sizes, of the containers in which the specified milk product is sold.

“(4.) The holder of a licence or a Vendor's Permit shall not sell a specified milk product to another person otherwise than at the price applicable, under regulations made by virtue of the last preceding sub-section, to that sale of that specified milk product.

Penalty: Four hundred dollars.

“(5.) Subject to the next succeeding sub-section, the holder of a licence or a Vendor's Permit is guilty of an offence under the last preceding sub-section, if, in relation to a sale of a specified milk product to which that sub-section applies, he demands or receives any payment (other than the price referred to in that sub-section) in respect of that sale or in respect of—

- (a) the processing of the specified milk product, whether by him or another person;

- (b) the provision and filling of the containers in which the specified milk product is sold;
- (c) the storing of the specified milk product; or
- (d) the delivery of the specified milk product.

“(6.) Nothing in the last preceding sub-section prevents the holder of a licence or a Vendor’s Permit from demanding or receiving an amount by way of deposit in respect of a container in which a specified milk product is sold, being a deposit that is repayable in full upon the return of the container.

“(7.) After the expiration of one year after the commencement of the *Milk Authority Ordinance (No. 2) 1972*, the Minister shall not make regulations prescribing a matter referred to in sub-section (2.) of this section otherwise than in accordance with recommendations contained in a report by the Authority of its findings on a public inquiry held by it in relation to that matter or in relation to matters including that matter.”.

11. Section 51 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “by the member in his capacity as member” and inserting in their stead the words “by him in his capacity as a member of the Authority or the Secretary to the Authority, as the case requires”.

Protection of
members of the
Authority and
Secretary.

12. Section 54 of the Principal Ordinance is amended—

Regulations.

- (a) by omitting paragraph (a), (c) and (d) of sub-section (1.); and
- (b) by omitting sub-section (2.).