



AUSTRALIAN CAPITAL TERRITORY

Milk Authority (Amendment) Act 1999

No. 2 of 1999

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REGULATION OF MILK VENDING—AMENDMENTS TO TRANSFER
RESPONSIBILITY FROM THE AUTHORITY TO THE MINISTER



AUSTRALIAN CAPITAL TERRITORY

Milk Authority (Amendment) Act 1999

No. 2 of 1999

An Act to amend the *Milk Authority Act 1971*

[Notified in ACT Gazette S8: 1 March 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Milk Authority (Amendment) Act 1999*.

2. Commencement

This Act is to be taken to have commenced on 31 December 1998.

3. Principal Act

In this Act, “Principal Act” means the *Milk Authority Act 1971*.¹

4. Saving

(1) This section applies in relation to conduct constituting a breach of this Act, or of a condition of a licence or permit, where—

- (a) the conduct occurred during the period commencing on 31 December 1998 and ending at the expiration of the day immediately before the day on which this Act is notified in the *Gazette*; and
 - (b) if this Act had not been enacted, the conduct would not have constituted such a breach.
- (2) No civil or criminal action lies against any person in relation to conduct to which this section applies.
- (3) If the holder of a licence or permit has undertaken conduct to which this section applies, that conduct does not constitute grounds for—
- (a) complaint against the holder of the licence or permit under section 27 of the Principal Act;
 - (b) revocation of the licence or permit under section 28 of the Principal Act; or
 - (c) cancellation of the licence or permit under section 35 of the Principal Act.
- (4) In this section—
- “licence” means a Vendor’s Licence issued under the Principal Act;
- “permit” means a Vendor’s Permit issued under the Principal Act, and includes a temporary Vendor’s Permit issued under section 33 of the Principal Act.

PART II—MILK AUTHORITY ACT 1971

5. Appointment and tenure of members of Authority

Section 7 of the Principal Act is amended by omitting subsections (1) and (1B) and substituting the following subsection:

“(1) The Authority shall consist of 1, 2, 3 or 4 members.”.

6. Meetings of Authority

Section 14 of the Principal Act is amended by omitting subsections (4) and (5) and substituting the following subsections:

“(4) At a meeting of the Authority, a quorum is constituted by—

- (a) if there are 3 or 4 members—3 members;
- (b) if there are 3 or 4 members, and there is a vacancy in the office of a member—2 members; or
- (c) if there are 1 or 2 members—1 or 2 members, as the case may be.

“(5) A question at a meeting of the Authority shall be determined by a majority of votes.

“(5A) If the members at a meeting are divided equally in opinion on a question—

- (a) if there are 3 or 4 members, and only 2 members are present—the question shall not be decided until there is a meeting at which 3 or 4 members are present; or
- (b) in any other case—the Chairperson may exercise a casting vote.”.

7. Functions of Authority

Section 16 of the Principal Act is amended by omitting from subsection (2) “the prices at which milk may be sold or”.

8. Price fixing by Treasurer

Section 16A of the Principal Act is amended—

- (a) by omitting from subsection (1) “Authority” and substituting “Treasurer”; and
- (b) by omitting subsections (3) and (4).

9. Repeal

Section 16B of the Principal Act is repealed.

10. Powers of Authority

Section 17 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (e) “the price at which milk ought to be sold or”;
- (b) by omitting subsection (1C);
- (c) by adding at the end of subsection (1D) “, and continues to be so authorised”;
- (d) by omitting subsection (1E); and
- (e) by omitting subsection (1F) and substituting the following subsection:
“(1F) Subsections (1B) and (1D) cease to have effect at the expiration of 31 December 1999.”.

11. Authorisation of licences and permits

Section 41A of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) This section ceases to have effect at the expiration of 30 June 2000.”.

12. Zoning authorisation

Section 48 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) This section ceases to have effect at the expiration of 30 June 2000.”.

13. The Schedule

The Schedule to the Principal Act is amended—

- (a) by omitting “Subsections 17 (1C), (1D) and (1E)” and substituting “Subsection 17 (1D)”;
- (b) by omitting the item relating to Clause A of Vendor’s Licences; and
- (c) by omitting “expires on 31 December 1998” and substituting “ceases to have effect at the expiration of 30 June 2000”.

14. Regulation of milk vending—amendments to transfer responsibility from the Authority to the Minister

The Principal Act is further amended as set out in the Schedule.

PART III—TRANSITIONAL

15. Interpretation

In this Part—

“amended Act” means the Principal Act as amended by this Act;

“unamended Act” means the Principal Act as in force before 31 December 1998.

16. Milk prices

A notice published by the Authority under subsection 16A (1) of the unamended Act fixing and declaring milk prices that was in force immediately before 31 December 1998 continues in force on and after that day as if it had been published by the Treasurer under that section as amended by this Act.

17. Licences and permits—saving

(1) A Vendor’s Licence or a Vendor’s Permit (including a temporary Vendor’s Permit issued under section 33 of the unamended Act) granted by the Authority that was in force immediately before 31 December 1998

continues in force on and after that day as if it had been granted by the Minister under the amended Act.

(2) Any conditions to which a licence or permit referred to in subsection (1) was subject immediately before 31 December 1998 continue to apply on and after that day in relation to the licence or permit as if any reference in those conditions to the Authority, or to an office-bearer of the Authority, were a reference to the Minister.

18. Licences and permits—complaints

(1) If, immediately before 31 December 1998, there was a ground for complaint against the holder of a Vendor's Licence or a Vendor's Permit under subsection 27 (1) of the unamended Act, on and after that day that ground for complaint still applies in relation to the holder of the licence or permit.

(2) If, immediately before 31 December 1998, a complaint had been made to the Authority under section 27 of the unamended Act but had not been finally dealt with by the Authority, and no inquiry into the complaint had commenced, on and after that day the amended Act applies (with necessary changes) in relation to that complaint as if it had been made under that section as amended by this Act.

19. Licences and permits—revocation

(1) If, immediately before 31 December 1998, there was a ground for the revocation of a Vendor's Licence or a Vendor's Permit under subsection 28 (1) of the unamended Act, on and after that day the ground for revocation still applies in relation to the holder of the licence or permit.

(2) If, immediately before 31 December 1998, a notice had been given under subsection 28 (2) of the unamended Act in relation to the proposed revocation of a Vendor's Licence or a Vendor's Permit, but no decision had been made by the Authority in relation to that revocation, and no inquiry into the revocation had commenced, on and after that day the amended Act applies (with necessary changes) in relation to that revocation as if the notice had been given under that subsection as amended by this Act.

20. Licences and permits—inquiries

If, immediately before 31 December 1998, an inquiry had commenced but had not concluded in relation to the holder of a Vendor's Licence or a Vendor's Permit, on and after that day the unamended Act continues to apply in relation to that inquiry and any finding of that inquiry as if this Act had not been made.

21. Licences—transfer

If, immediately before 31 December 1998, an application had been made under section 31 of the unamended Act for the transfer of a Vendor's Licence or part of a zone in respect of which such a licence is issued, but the Authority had made no decision in relation to that transfer, on and after that day the amended Act applies (with necessary changes) in relation to that transfer as if the application had been made under that section as amended by this Act.

22. Temporary permits

If, immediately before 31 December 1998, an application had been made to the Authority for the issue of a temporary Vendor's Permit under section 33 of the unamended Act, but the Authority had made no decision in relation to the issue of such a permit to the applicant, on and after that day the amended Act applies (with necessary changes) in relation to the decision in relation to the issue of such a permit as if the application had been made to the Minister for the issue of such a permit under that section as amended by this Act.

23. Zoning of milk vendors

A declaration, determination or re-determination of the Authority made for any purpose under Part IV of the unamended Act that was in force immediately before 31 December 1998 continues in force on and after that day as if it had been made by the Minister under that Part as amended by this Act.

SCHEDULE

Section 14

**REGULATION OF MILK VENDING—AMENDMENTS TO TRANSFER
RESPONSIBILITY FROM THE AUTHORITY TO THE MINISTER**

Subsection 4 (1) (definition of “zone”)—

Omit “Authority”, substitute “Minister”.

Subsection 4 (1) (definition of “authorized officer”)—

Omit the definition.

Subsection 5 (1)—

(a) Omit “Authority”, substitute “Minister”.

(b) Omit “it”, substitute “he or she”.

Section 26—

Omit “Where it refuses an application for a licence or permit, the Authority”, substitute “Where the Minister refuses an application for a licence or permit, he or she”.

Paragraph 27 (1) (b)—

Omit the paragraph.

Subsection 27 (4)—

Omit the subsection.

Subsection 27 (5)—

(a) Omit “The Secretary to the Authority”, substitute “The Minister”.

(b) After “he” insert “or she”.

(c) Omit “by the Authority”.

Subsection 27 (6)—

Omit the subsection, substitute the following subsections:

“(6) After considering any representations made in pursuance of subsection (3), the Minister may hold an inquiry under section 29 for the purposes of this section if—

- (a) satisfied on reasonable grounds that there may be a ground for complaint sufficiently serious to warrant an inquiry;
- (b) satisfied on reasonable grounds that there may be a ground for the revocation of a Vendor’s Licence or a Vendor’s Permit; or

SCHEDULE—continued

- (c) the parties do not agree to a settlement of the differences proposed by the Minister.

“(7) The Minister may hold an inquiry for the purposes of this section without calling for representations under subsection (3) if satisfied on reasonable grounds that it is necessary to hold an inquiry without delay.”.

Subsection 28 (1)—

Omit “its powers, the Authority may, of its own motion,”, substitute “his or her powers, the Minister may”.

Paragraph 28 (1) (g)—

Omit “by the Authority under this Act”, substitute “under section 29”.

Subsection 28 (2)—

Omit “The Authority shall, before revoking a licence or permit on a ground referred to in subsection (1), direct the Secretary to the Authority to give”, substitute “The Minister shall, before revoking a licence or permit on a ground referred to in subsection (1), give”.

Subsection 28 (3)—

- (a) Omit “Secretary to the Authority”, substitute “Minister”.
- (b) Omit “Authority” (second occurring), substitute “Minister”.
- (c) Omit “Authority shall, unless it”, substitute “Minister shall, unless he or she”.

Subsection 29 (1)—

Omit the subsection, substitute the following subsections:

“(1) The Minister may hold an inquiry in the following circumstances:

- (a) in the circumstances referred to in section 27;
- (b) if the holder of a licence or permit gives the notice referred to in section 28 that he or she intends to show cause why the licence or permit should not be revoked.

“(1A) An inquiry shall be conducted in such manner as will best enable the Minister—

- (a) to consider any representations by the holder of the licence or permit and any person who has made a complaint about that person; and

SCHEDULE—continued

- (b) to make a properly informed decision about the matters to be inquired into.”.

Subsection 29 (4)—

Omit the subsection, substitute the following subsection:

“(4) Where an inquiry is held for the purposes of section 27, the Minister may, if he or she finds that there is a ground for complaint under subsection 27 (1), issue to the holder of the licence or permit such directions as to the conduct of his or her business as the Minister considers appropriate.”.

Subsection 30 (1)—

- (a) Omit “Where, in pursuance of section 29, the Authority holds an inquiry into a matter that has been referred to it in pursuance of subsection 27 (4) or (6)”, substitute “Where the Minister holds an inquiry into a matter for the purposes of section 27”.
- (b) Omit “Authority” (last occurring), substitute “Minister”.

Sections 41A and 48—

Repeal the sections.

Further amendments—

1. The following provisions are amended by omitting “Authority” (wherever occurring) and substituting “Minister”:

Subsections 5 (2), (4) and (6), paragraphs 22 (9) (c) and (g), subsection 23 (1), paragraph 23 (2) (a), subsection 24 (1), paragraphs 24 (2) (a), (b) and (c), subsections 24 (3) and 25 (1), paragraph 25 (2) (a), subsection 25 (4), paragraph 27 (1) (f), subsections 28 (4) and (5), 29 (2) and (3), 30 (3) and 31 (1), paragraph 31 (2) (a), subsections 31 (3), (4), (5) and (6) and 32 (1), (2), (3), (4) and (7), paragraph 32 (8) (a), subsections 33 (1), (2) and (4), 34 (1) and (2) and 35 (1), (2) and (3), section 36, subsections 43 (1) and (2), 44 (1) and (2), 45 (1) and (2) and 46 (1), (2), (3), (4) and (5).

2. The following provisions are amended by omitting “Secretary to the Authority” (wherever occurring) and substituting “Minister”:

Paragraph 23 (2) (b), subsection 23 (3), paragraph 25 (2) (b), subsections 25 (3) and 27 (2) and (3), paragraph 31 (2) (b), sections 38 and 40 and subsection 47 (1).

NOTES

Principal Act

1. Reprinted as at 10 July 1998. See also Act Nos. 35 and 54, 1998.

Section headings

On 31 December 1998, in addition to any alteration of section headings indicated in the text of this Act, headings to sections of the Principal Act are to be taken to have been altered as set out in the following table:

| Section | Alteration |
|---------|---|
| 29 | Omit the heading, substitute the following heading: “Disciplinary inquiries”. |
| 43 | Omit the heading, substitute the following heading: “Declaration of developing or developed areas”. |

[Presentation speech made in Assembly on 2 February 1999]

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