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BILLE AN BHAINNE (SOLÁTHAR A RIALÁIL), 1994**MILK (REGULATION OF SUPPLY) BILL, 1994****EXPLANATORY AND FINANCIAL MEMORANDUM**

The purpose of the Bill is to implement a Government decision to abolish the Cork and Dublin District Milk Boards, to sell their ancillary business and establish a new national milk agency.

The need for the Bill arises because the Milk Boards' statutory function, of regulating the supply and price of milk for liquid consumption in the Dublin and Cork areas, was deemed to be invalid under EU law and because of the resultant requirement to put in place alternative arrangements to ensure a year-round supply of drinking milk in the country as a whole. (The need to ensure an adequate year-round supply of milk in the bigger urban centres of Dublin and Cork was the reason for the establishment of the Milk Boards system in the first instance.)

The Bill provides for the repeal of the Milk (Regulation of Supply and Price) Acts, 1936 to 1967, the current legislation dealing with the Milk Boards' operations.

Provisions of the Bill:

Section 1 defines the terms used in the Bill.

Section 2 provides for the establishment, by Order of the Minister, of a National Milk Agency to regulate the supply of milk for liquid consumption. The Agency will be a body corporate with perpetual succession, power to sue and be sued and to acquire and dispose of land. It will comprise a Chairman and members representing the interests of producers, processors, distributors, retailers and consumers of milk. This Section also provides that the provisions set out in the Schedule of the Bill will apply to the Agency.

Section 3 provides for the dissolution, by order of the Minister, of the Milk Boards. It also provides for the sale of the Boards' ancillary business. It allows for the establishment of an Interim Board to carry on that business pending sale.

Section 4 provides that, on the dissolution of a Milk Board, its pension scheme will be administered by the Minister. The Minister may, with the consent of the Minister for Finance, amend the scheme to provide superannuation benefits to or in respect of persons who were at any time employed by a Board, or to pay compensation to persons currently employed by a Board, and whose ceasing employment would, on that Board being dissolved, facilitate the sale of the Board's business. Every amended scheme must be laid before each House of the Oireachtas and either House may, within twenty one

sitting days pass a resolution annulling it. The Milk (Regulation of Supply and Price) (Amendment) Act, 1961 is amended to allow for the payment of benefit to or in respect of a Board Chairman and permanent staff. Finally, this Section provides for the transfer to the Minister of a Board's pension fund on the dissolution of a Board and the use of such funds for the benefit of the Exchequer; all payments arising under this section shall be made from money provided by the Oireachtas.

Section 5 prohibits the sale of heat-treated milk for liquid consumption unless it has been prepared from raw milk produced on foot of a registered contract or else on the processor's own farm. Penalties for contravention of this provision are laid down, and the section also provides for certain exemptions from the prohibition.

Section 6 deals with the conditions for the registration of contracts by the Agency. The section provides that the contract period must be for a minimum 12 month period; that the contract specifies that the untreated milk supplied by the producer must meet at least such quality standards as may, from time to time, be prescribed by law; that the contract provides for all year round supply by the producer of raw milk with a specified minimum percentage of the producer's production being supplied during the winter months or for supply during the winter months only; that the contract, in the opinion of the Agency, provides adequate compensation to the producer for raw milk supplied under the contract throughout the year, in particular for milk supplied in the winter months. The section also provides for the continued registration of the contract to be dependent on the submission annually of a supplement to the contract which must satisfy the Agency that adequate compensation will be offered to the producer for the supply of milk during the following winter months.

Section 7 provides that the Agency shall maintain a register of contracts, a register of producers and a register of processors.

Section 8 provides for the payment of a levy by milk processors to the Agency. The section provides that the rate of levy shall be set down by order of the Minister. The section also provides for future adjustments in the rate of levy with the consent of the Minister. In the event of non-payment of the levy the section provides for the issue of certificates of indebtedness in this matter, and for the cancellation of the registration of any processor who fails or falsifies in any matter connected with the requirements of this section and for necessary penalties for such failure or falsification.

Section 9 provides for the Minister to prescribe the returns to be made by persons registered in any register and provides for penalties for contravention of same.

Section 10 provides for the prescribed records to be kept by every person registered in respect of any premises in any register kept by the Agency and the obligation of that person to produce such records to an inspector of the Agency.

Section 11 provides for the publication of contents of registers and other matters.

Section 12 makes provision for a change of registration on death or transfer of business.

Section 13 provides for the alteration of cancellation of registration by the Agency and the reasons for so doing.

Section 14 sets out provisions in relation to registers and evidence.

Section 15 provides powers of inspection and examination for an inspector of the Agency.

Section 16 prohibits the improper disclosure of information by members and officers of the Agency and provides for penalties for same.

Section 17 provides that the Agency shall keep, maintain and manage a fund and matters consequential thereto.

Section 18 provides that the Agency keep appropriate accounts, books and records and provide annual audited accounts to the Minister. It must also furnish an annual report which the Minister shall lay before each House of the Oireachtas.

Section 19 provides that any producer or processor may appeal any decision of the Agency acting in discharge of its functions under this legislation to an officer of the Minister in the first instance and to the courts in the second instance.

Section 20 deals with the laying of regulations made under this Act before each House of the Oireachtas. Such regulations may be annulled by a resolution passed by either House within a period of 21 sitting days after the regulations are laid before it.

Section 21 provides for the repeal of the Milk (Regulation of Supply and Price) Acts, 1936 to 1967. The repeals will take effect on the date of establishment of the National Milk Agency.

Section 22 provides for the expenses of the Minister.

Section 23 contains the short title.

SCHEDULE

Paragraph 1 of the Schedule provides for matters governing the position of the part-time chairman of the Agency relating to his/her appointment, allowances, expenses and temporary incapacity.

Paragraphs 2 to 10 of the Schedule provide for matters relating to the ordinary members (i.e. members other than the Chairman) of the Agency. Included is provision for the appointment by the Minister at the outset and in every third year thereafter of the appropriate number of processor, distributor, retailer and consumer representatives on the nomination of the interests concerned. At the outset the Minister shall also appoint the appropriate number of producer members on the nomination of producer interests, but during the first year of the Agency and in every third year thereafter the Minister shall appoint an election day so that the producer representatives may be elected by and from among those producers registered with the Agency. Ordinary members shall be eligible for re-election or re-nomination on the expiry of their terms of office. They may resign at any time by letter to the Secretary. Any ordinary member who is adjudged bankrupt, who is convicted of an offence under this Act, who ceases to be ordinarily resident in the State or, in the case of producer and processor members, who ceases to be registered in the appropriate register maintained by the Agency under this Act shall be disqualified and shall cease to hold office. Should casual vacancies arise through the death, resignation or disqualification of any ordinary member then the Minister, after consultation with the Agency, shall appoint a person to fill the vacancy for the remainder of the term of office of the member whose place is being filled. Where, due to illness or for some other reason, an ordinary member is temporarily unable to act, the Minister may appoint a temporary substitute. Every ordinary

member shall be paid by the Agency such allowances for expenses as the Minister, with the consent of the Minister for Finance, approves.

Paragraph 11 provides that any member of the Agency who becomes a member of the Oireachtas or the European Parliament will cease to be a member of the Agency. It further provides that any member of the Agency's staff who assumes any of the aforementioned offices will stand seconded from the Agency's employ for the duration of their office holding.

Paragraph 12 provides that the Agency shall appoint a Chief Executive and so many other staff as it considers necessary for the performance of its work. It further provides that the Minister may designate Milk Boards' staff to be staff of the Agency and lays down pertinent matters regarding their pay and conditions of employment.

Paragraph 13 provides that the Agency shall have an office for the receipt of communications and to this end may purchase or lease such premises as it considers necessary. It must keep the Minister informed of its address.

Paragraph 14 provides for the establishment of a superannuation scheme for the staff of the Agency. Every such scheme and amendment thereto, must be laid before each House of the Oireachtas and either House may, within 21 sitting days, pass a resolution annulling that scheme.

Paragraph 15 lays down the procedure for meetings of the Agency.

Paragraph 16 provides for the official seal of the Agency.

FINANCIAL AND STAFFING IMPLICATIONS

There are some 125 persons employed by the Boards. Of these, some 50 will be granted voluntary early retirement, about 70 will transfer to the private sector on the sale of the Boards' business as a going concern and the remainder will be transferred to the new National Milk Agency on terms and conditions equivalent to those which they had while employed by the Boards.

The cost in the current year of the payment of pensions and lumpsums to Milk Board employees granted voluntary early retirement will depend on the timing of the enactment of this Bill.

The once-off cost of lumpsum payments is estimated at £1 million. The cost in a full year of pensions payable to those granted early retirement is estimated at £350,000; apart from the effect of any increases in pension rates, this cost will diminish over time.

Those Milk Board staff members who are not granted voluntary early retirement and who transfer with the Boards' business to a new employer will receive pension benefits (including lumpsums) in respect of their service with the Boards on reaching normal retirement age. It is intended that, although there are staff pension funds, future pension liabilities will be borne by the Exchequer and the funds will be liquidated and the proceeds paid into the Exchequer. The proceeds from the sale of the Boards' business will also be paid into the Exchequer.

*An Roinn Talmhaíochta, Bia agus Foraoiseachta,
Meitheamh, 1994.*

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