

Uttar Pradesh Milk Act, 1976

UTTAR PRADESH

India

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Act 7 of 1976

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Uttar Pradesh Milk Act, 1976(U.P. Act No. 7 of 1976)Last Updated 26th February, 2020For Statement of Objects and Reasons, see Uttar Pradesh. Gazette, Extraordinary, dated April 8, 1976.[Passed in Hindi by the Uttar Pradesh Legislative Assembly on April 8, 1976 and by the Uttar Pradesh Legislative Council on April 6, 1976.Received the assent of the Governor on April 16, 1976, under Article 200 of 'the Constitution of India', and was published in the Uttar Pradesh Gazette, Extraordinary, dated April 17, 1976.]An Act to provide for the regulation and control of production, supply and distribution of milk and its conversion into milk products with a view to development of dairy industry in the State, and for matters connected therewith.It is Hereby enacted in the Twenty-seventh Year of the Republic of India as follows;-

Chapter 1

1. Short title, extent and commencement.

(1)This Act may be called the Uttar Pradesh Milk Act, 1976.(2)It extends to the whole of Uttar Pradesh.(3)It shall come into force on such [date] [Under notification no. 1494-C (3) XII· C B-8-73, dated May 11, 1976. The Governor is hereby appoint; May 11, 1976 as a date on which all the sections except 11,12, 13,14, 16 and 17 of the said Act wall come into force.] as the State Government may by notification appoint in this behalf, and different dated may be appointed for different areas of Uttar Pradesh and for different provisions of this Act.

2. Definitions.

- In this Act-(a)"authorized person" and "authorized agency" respectively, mean a person and "agency authorized by the Board by notification for any purpose under this Act;(b)Board" means the Uttar Pradesh Rajya Dugdh Parshad, constituted by the State Government by notification under section 3;(c)"dairy" means any premises where machinery is used for cooling, heating or any other treatment of milk or for converting milk into milk products or packaging of milk or milk

products;(d)"Fund" means the Uttar Pradesh Milk Development Fund created under section 9;(e)"licence" means a licence issued by the Licensing Authority under this Act;(f)"Licensing Authority" means an officer authorized by the Milk Commissioner in this behalf;(g)"manufacturer" means a person or establishment engaged in the manufacture of milk products or in the preparation of items containing milk solids;(h)"processor" means a person or establishment engaged in the collection or treatment of liquid milk, such as chilling, heating or any other treatment for augmenting the marketable life of milk;(i)"milk" means lacteal secretion from cow Or buffalo;(j)"Milk Commissioner" means the Milk Commissioner appointed under section 7;(k)"milk, product" means any commodity manufactured from milk, separated milk, butter milk or whey, and includes powders, condensed or evaporated milk, Cream, cheese, ghee, khoa, dahi, chhena, casein, ice-cream or any other product as may be notified by the Board to be milk products(l)"reserved area" means the area specified in an order made under section 12.

Chapter II

Constitution and Functions of the Board

3. Constitution of the Board.

- The State Government shall, by notification and with effect from a date to be specified therein, constitute a Board to be known as the Uttar Pradesh Rajya Dugdh Parishad which shall be a body corporate with power, subject to the provisions of this Act and the rules made thereunder, to acquire, hold and dispose of property.

4. Member of the Board.

- The Board shall consist of the following : (a) Commissioner and the Secretary to the State Government, incharge of Agriculture Production and Rural Development, who shall be the Chairman of the Board, ex-officio; (b) The Chairman, Pradeshik Co-operative Dairy Federation Ltd., ex-officio, who shall be the Vice-Chairman of the Board, ex-officio; (c) the Secretary to the State Government, Finance Department, Uttar Pradesh, ex-officio; (d) Special Secretary or Joint Secretary, as the case may be, to the State Government in the Pashudhan Department Uttar Pradesh, ex-officio; (e) the Director of Animal Husbandry, Uttar Pradesh, ex-officio; (f) the Director of Agriculture, Uttar Pradesh, ex-officio; (g) the Registrar, Co-operative Societies, Uttar Pradesh, ex-officio; (h) the Director of Medical and Health Services, Uttar Pradesh, ex-officio; (i) four representatives of milk producers, unions, to be nominated by the State Government; (j) two representatives of dairies registered under the Industries (Development and Regulation) Act, 1951, in Uttar Pradesh, to be nominated by the State Government; (k) two persons representing the consumers' interests, to be nominated by the State Government; and (l) the Milk Commissioner, ex-officio, who shall be the Member-Secretary of the Board.

5. Term or non- official members.

- The term of office of non-official members shall be three years from the date of notification of their appointment.

6. Functions of the Board.

(1) Subject to the provisions of this Act, the functions of the Board shall generally be to plan, control, develop and regulate milk production and dairy industry in the State. (2) In particular and without prejudice to the generality of the provisions of sub-section (1), the Board may take such steps as it may think fit - (a) to prepare plans and schemes for the development of dairy industry in the State; (b) to regulate and provide for the supply of milk to dairies and processors and manufacturers of milk or processed milk, for manufacture and sale of milk products; (c) to assist entrepreneurs in preparing projects for setting up new dairies and to accord approval for the same; (d) to initiate, guide and co-ordinate activities concerning breeding of livestock, provision of balanced cattle feed and fodder to producers and control and treatment of cattle diseases; (e) to regulate the price of milk and milk products; (f) to secure funds for and to incur expenditure in connexion with the discharge of functions undertaken by the board; and (g) to take such other measures as may be prescribed.

7. Appointment of Milk Commissioner.

- The State Government shall for purposes of this Act appoint a Milk Commissioner who shall perform the duties and exercise all powers conferred or imposed upon him by or under this Act.

8. Employees of the Board.

(1) The Milk Commissioner shall be the Chief Executive Officer of the Board. (2) Subject to any general or special orders of the State Government the Board may, appoint such officers and employees as it considers necessary for the efficient performance of its functions under this Act and on such terms and conditions as it thinks fit. (3) Subject to the superintendence of the Board, the general control and direction over all the officers and employees referred to in sub-section (2) shall be vested in the Milk Commissioner.

9. Milk Development Fund.

(1) There shall be established a fund to be called the Uttar Pradesh Milk Development Fund, which shall be administered and controlled by the Board and to which all moneys received on behalf of the Board shall be credited. (2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the income of the Board from the following sources, shall be credited to the fund: - (a) amount to be credited to the fund by Government out of the proceeds of cess to be imposed under section 16; (b) licensing fees received under the provisions of this Act; (c) grants and subventions received from the State or Central Government or from any other organization or body.

10. External Control.

(1)The Board shall furnish to the State Government, at such times and in such form and manner as the State Government may by general or special order direct, such returns, reports and statements as the State Government may from time to time require.(2)Without prejudice to the provisions of sub-section (1), the Board shall, within two months after the end of each financial year, submit to the State Government giving a true and full account of its activities, policies and programmes during the previous financial year.(3)The accounts of the Board shall be deemed to be a local fund and be audited by the Examiner, Local Fund Accounts, Uttar Pradesh.(4)In the discharge of its functions, the Board shall be guided by such directions on questions of policy all may be given to it by the State Government.(5)If any question arises whether any matter is or is not a matter as respects which the State Government may issue a direction under sub-section (4), the decision of the State Government shall be final.

Chapter III

Registration, Licence, Cess and Restrictions

11. Licensing of Dairy Processor or manufacturer.

(1)No person shall after the commencement of this Act set up a dairy or milk processing unit handling or having installed capacity for handling milk or milk products in quantities exceeding the limit specified by the Board in this behalf except under a licence in that behalf.(2)No person shall on or after the date to be appointed in this behalf by the State Government by notification (such date being not earlier than three months after the commencement of this Act), carry on business of dairy or as processor or manufacturer, handling or having installed capacity for handling milk or milk products in quantities exceeding the limits specified by the Board by notification in this behalf, except under a licence in that behalf.(3)Notwithstanding anything contained in sub-sections (1) and (2), a milk processing unit licensed under the Industries (Development and Regulation) Act, 1951 shall not be refused licence under this Act, if it makes an application in the prescribed manner and complies with the prescribed conditions and furnishes such security and pays such fee as may be prescribed.Explanation I. - Different dates may be appointed by the State Government in such notification for different areas or for different categories, namely, dairies, processors or manufacturers.Explanation II. - Different rates or fees may be prescribed for the categories mentioned in Explanation I or for different classes thereof.

12. Reserved Area.

(1)The Board may, by notification, declare an area to be a reserved area to ensure the availability of sufficient milk at fair prices.(2)When an area has been declared a reserved area, the dairy or dairies in such area shall, if so directed by the Board, purchase all the milk offered by the producers in the area at such price as may be notified by the Board having regard to relevant factors such as availability and quality of milk and price of milk in that area during the preceding year.

13. Licensing of Transporter.

- No person other than an authorised person or agency shall collect, carry or transport milk or milk products from any place within a reserved area to any place outside such area without obtaining licence in this regard from the licensing authority :Provided that nothing in this section shall apply to transport or carriage of ghee, or milk any milk product in quantities not exceeding prescribed limits by any person for personal consumption.

14. Grant of licence Suspension or Cancellation Forfeiture of security and ban on claim for compensation.

(1)A licence under the provision of this Act shall be granted or renewed by the licensing authority in the prescribed manner, subject to prescribed conditions and on furnishing of such security and payment of such fees as may be prescribed.(2)If any licensee contravenes any of the provisions of this Act or the rules made thereunder or any condition of the licence, then without prejudice to his liability for punishment under section 20, the licensing authority may, after giving him an opportunity of explanation, cancel his licence :Provided that the licensing authority may, while issuing notice for cancellation of licence under this sub-section, suspend the licence.(3)Where any licensee has been convicted of an offence under any law relating to purity or quality standards of milk or milk products for the time being in force, the licensing authority may, having regard to the nature and gravity of the offence and the circumstances, in which it was committed, modify or cancel his licence.(4)Without prejudice to the provisions of section 20 or of subsection (1), if the licensing authority is satisfied that a licensee has contravened any of the conditions of the licence and that a forfeiture of his security deposit is called for, it may, after giving him an opportunity of explanation, by order forfeit the whole or part of his security deposit.(5)A copy of every order suspending or cancelling or modifying the licence under sub-section (2) or sub-section (3) or an order forfeiting security deposit under sub-section (4) shall be communicated to the licensee.(6)Any person aggrieved by an order of the licensing authority under sub-section (2), sub-section (3) or sub-section (4) may, within sixty days of the communication of the order to him, appeal to the Chairman of the Board in the prescribed manner.(7)The licensee shall not be entitled to compensation or refund of licence fee on cancellation or suspension of this licence.

15. Prohibition or regulation of sale and transport and export of milk and milk products.

- The State Government may, in the public interest and subject to the provisions of this Act and the rules made thereunder, by notification regulate or fix prices in respect of -(a)the sale or supply of milk, or the manufacture, sale or supply of any milk product in a particular area; and(b)the transport of milk or any milk product from one area in the State to another area in the State or its export to any place outside the State.

16. Cess on purchase of milk.

(1)The State Government may by notification impose, levy and charge tax on the sale or purchase or of carriage by road of milk or milk products in such manner and at such rate or rates as may be prescribed not exceeding 10 per cent of the price of the milk or milk products, as the case may be, and such tax shall be payable by the dairy or by a processor, manufacturer or transporter of milk or milk product outside the State.(2)Any tax imposed under sub-section (1) shall be levied at only one point and in such manner as may be prescribed.(3)A tax imposed under this section shall be called "Milk Cess".(4)The authority empowered to collect the cess may forward to the Collector, a certificate under his signature specifying the amount of arrears due from the person concerned, and the Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue.

17. Proceeds of cess to go to Milk Development, Fund.

- At the beginning of each financial year, after due appropriation has been made by law, the State Government shall withdraw from and out of the Consolidated Fund of the State the full amount of the proceeds of the cess imposed under section 16, and recovered by it during the preceding financial year after deduction of collection charges, and place it to the credit of the Uttar Pradesh Milk Development Fund, and the crediting of such monies to the said Fund shall be a charge on the Consolidated Fund of the State.

Chapter IV

Penalties and Procedure

18. Cognizance of offence.

- No court shall take cognizance of any offence punishable under this Act except on the report of a police officer with the previous sanction of the Board or any person authorized by the Board for the purpose, made within six months next after the commission of the offence.

19. Jurisdiction of Court.

- No court inferior to that of a magistrate of the first class shall try an offence punishable under this Act.

20. Penalty.

- Whoever contravenes any of the provisions of this Act or of any rule or regulation made thereunder or fails to comply with any order issued under this Act or the rules or regulations made thereunder shall be punishable with fine which may extend to five thousand rupees and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day

during which such offence continues, after conviction for the first commission of offence.

21. Offence by companies.

(1) If the person committing an offence under this Act is a company the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence, shall be liable to be proceeded against and punished as if this offence was committed by himself : Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or, that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be liable to be proceeded against and punished for the offence. Explanation. - For the purposes of this section -(a) 'Company' means any body corporate and includes a firm or association of individuals, and (b) 'Director' in relation to a firm, means a partner in the firm.

22. Composition of offence.

(1) The Milk Commissioner or any other officer of the Board authorized by it by general or special order in that behalf may, either before or after the institution of the proceedings, compound an offence punishable under this Act on such terms, including payment of composition fee, as he may think fit; Provided that no offence consisting of a failure to comply with an order issued by or on behalf of the Board shall be compounded until such order has, so far as practicable, been complied with. (2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

Chapter V

Miscellaneous

23. Authentication of orders and documents or the Board.

- All permissions, orders, decisions and other documents of the Board shall be authenticated by the signature of the Chief Executive Officer or any officer authorized used by the Board in this behalf.

24. Inspection of undertakings, etc.

- The licensing authority or any person authorized by the Milk Commissioner may inspect or examine or cause to be inspected or examined any premises, equipment or record and milk or milk products of any dairy, or any undertaking of a processor or manufacturer to satisfy itself or himself

that no contravention of this Act or rules or regulations made thereunder has been, is being, or is likely to be committed.

25. Protection for acts done in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything which is done or intended to be done in good faith under this Act or the rules and regulations made thereunder.

26. Acts not to be invalid.

- No act of the Board shall be deemed to be invalid only because of any vacancy in its membership or any defect in its constitution or establishment.

27. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters; namely -(a)the conduct of business by the Board;(b)the duties, powers and functions of the Milk Commissioner;(c)the appointment of members in casual vacancies in the Board;(d)the preparation and submission of financial statements;(e)the manner and form in which the Uttar Pradesh Dairy Development Fund shall be administered and payments from such fund;(f)the manner of licensing and rates of licensing fees;(g)the rates of milk cess and the manner of its imposition and collection;(h)the statements and returns to be submitted by the Board to the State Government and the registers and other forms to be maintained by it or by dairies, manufacturers and processors;(i)the reference to the Milk Commissioner of the disputes between a Milk Union, dairy, processor or manufacturer and the procedure to be followed by the Milk Commissioner in this regard; and(j)any other matter which has to be and may be prescribed by the Board.

28. Regulation.

(1)The Board may, with the previous sanction of the State Government, make regulations consistent with this Act and the rules made thereunder.(2)In particular, and without prejudice to the generality of the foregoing power, the Board may make regulations providing for -(a)the procedure in regard to the transaction of business of the Board or its committees;(b)the functions and duties of the employees of the Board;(c)the constitution, powers, duties and functions of Committees of the Board; and(d)any other matter for which provision is to be or may be made in the regulations.