

Dairying Research

No. 30 of 1972

An Act to establish a Dairying Research Trust Account,
and for purposes connected therewith.

[Assented to 26 May 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Dairying Research Act 1972*. Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. In this Act, unless the contrary intention appears— Definitions.
 - “levy” has the same meaning as in the Levy Collection Act;
 - “member” means a member of the Committee;
 - “milk” means the lacteal fluid product of the cow;
 - “research” means scientific, technical or economic research in connexion with the production, distribution or marketing of whole milk or dairy products, and includes—
 - (a) the training of persons for the purpose of any such research;
 - (b) the publication of reports, periodicals, books and papers in connexion with any such research;
 - (c) the dissemination of information and advice in connexion with scientific, technical or economic matters related to the production, distribution or marketing of whole milk or dairy products; and
 - (d) any matter incidental to a matter referred to in this definition;
 - “the Board” means the Australian Dairy Produce Board constituted under the *Dairy Produce Export Control Act 1924–1972*;
 - “the Committee” means the Dairying Research Committee established by this Act;
 - “the Levy Collection Act” means the *Dairying Research Levy Collection Act 1972*;
 - “the Research Account” means the Dairying Research Trust Account established by this Act.

Dairying
Research
Trust
Account.

4.—(1.) An account is hereby established to be known as the Dairying Research Trust Account.

(2.) The Research Account is a Trust Account for the purposes of section 62A of the *Audit Act* 1901–1969.

Moneys to
be paid into
Research
Account.

5.—(1.) There shall be paid into the Research Account, out of the Consolidated Revenue Fund, which is appropriated accordingly—

- (a) amounts equal to the amounts from time to time received by the Commonwealth—
 - (i) as levy;
 - (ii) in discharge of the liability (other than a liability in respect of a penalty under sub-section (1.) of section 7 of the Levy Collection Act) of a person under sub-section (1.) of section 6 of the Levy Collection Act; and
 - (iii) as penalties under section 7 of the Levy Collection Act;
- (b) amounts equal to the amounts that, immediately before the date of commencement of the *Dairy Produce Sales Promotion Act* 1972, were payable, but had not been paid, out of the Consolidated Revenue Fund into the Dairy Produce Research Trust Account established by the *Dairy Produce Research and Sales Promotion Act* 1958;
- (c) amounts equal to the amounts received, on or after the date of commencement of the *Dairy Produce Sales Promotion Act* 1972, by the Commonwealth as levy by virtue of paragraph (a) of sub-section (1.) of section 6 of the *Butter Fat Levy Act* 1965–1966; and
- (d) subject to sub-section (4.) of this section, amounts equal to one-half of the amounts from time to time payable out of the Research Account in accordance with this Act.

(2.) Moneys standing, immediately before the date of commencement of the *Dairy Produce Sales Promotion Act* 1972, to the credit of the Dairy Produce Research Trust Account established by the *Dairy Produce Research and Sales Promotion Act* 1958 shall be paid into the Research Account and so much of those moneys as was, immediately before that date, invested by the Treasurer under section 62B of the *Audit Act* 1901–1969 shall be deemed, on and after that date, to be moneys standing to the credit of the Research Account that have been so invested.

(3.) There shall be paid into the Research Account—

- (a) moneys paid by any person to the Commonwealth for the purposes of the Research Account;
- (b) moneys received by the Commonwealth from the sale of any land or goods bought or purchased, or in respect of any work paid for, out of moneys paid out of the Research Account;
- (c) moneys received, on or after the date of commencement of the *Dairy Produce Sales Promotion Act* 1972, by the Commonwealth

from the sale of any land or goods bought or purchased, or in respect of any work paid for, out of moneys paid out of the Dairy Produce Research Trust Account established by the *Dairy Produce Research and Sales Promotion Act 1958*;

- (d) interest received by the Commonwealth from the investment of moneys standing to the credit of the Research Account; and
- (e) interest received, on or after the date of commencement of the *Dairy Produce Sales Promotion Act 1972*, by the Commonwealth from the investment of moneys standing to the credit of the Dairy Produce Research Trust Account established by the *Dairy Produce Research and Sales Promotion Act 1958*.

(4.) The sum of the amounts paid into the Research Account by virtue of paragraph (d) of sub-section (1.) of this section shall not exceed the sum of—

- (a) the amounts paid into the Research Account by virtue of subparagraph (i) or (ii) of paragraph (a) of that sub-section;
- (b) such part of the amounts paid into the Research Account by virtue of paragraph (b) of that sub-section or sub-section (2.) of this section as, in the opinion of the Minister, represents amounts of levy payable by virtue of paragraph (a) of sub-section (1.) of section 6 of the *Butter Fat Levy Act 1965-1966*; and
- (c) the amounts paid into the Research Account by virtue of paragraph (c) of sub-section (1.) of this section.

6.—(1.) Subject to the next succeeding sub-section, moneys standing to the credit of the Research Account may be expended—

Application
of Research
Account.

- (a) with the approval of the Minister, for the purpose of research;
- (b) in payment of the expenses incurred, with the approval of the Minister, by the Committee in the performance of its functions;
- (c) in payment of fees, expenses and allowances payable to a member, or the deputy of a member, under section 14 of this Act; and
- (d) in payment of fees, expenses and allowances payable to persons appointed by the Minister under section 15 of this Act.

(2.) The Minister shall not exercise his power to approve the expenditure of moneys from the Research Account for the purpose referred to in paragraph (a) of the last preceding sub-section except in accordance with a recommendation of the Committee.

(3.) Any moneys that would, but for the *Dairy Produce Sales Promotion Act 1972*, have been payable out of the Dairy Produce Research Trust Account established by the *Dairy Produce Research and Sales Promotion Act 1958* in respect of any act or transaction done or entered into before the date of commencement of the *Dairy Produce Sales Promotion Act 1972* may be paid out of the Research Account.

Agreements
for carrying
out of
research.

7.—(1.) The Minister, or an officer of the Public Service of the Commonwealth for the time being authorized by the Minister, by instrument in writing, to act under this section, may, on behalf of the Commonwealth, enter into agreements for the purposes of, or for purposes in connexion with, any research to be done or performed with moneys provided in whole or in part out of the Research Account.

(2.) Without limiting the generality of the last preceding sub-section, an agreement made with a person under that sub-section in relation to moneys provided out of the Research Account may—

(a) provide for the moneys to which the agreement relates and any property acquired with those moneys or with moneys that include those moneys to be used only for purposes specified in the agreement and for the payment by the person to the Commonwealth for the purposes of the Research Account, in the event of any of those moneys or any of that property being used for a purpose not specified in the agreement, of an amount equal to the whole, or such part as the Minister determines, of those moneys;

(b) provide for the payment by the person to the Commonwealth for the purposes of the Research Account of an amount equal to the whole, or such part as the Minister determines, of any net income derived by the person from—

(i) property acquired with moneys to which the agreement relates or with moneys that include those moneys; or

(ii) patents for inventions made, or any other property acquired, in the course of carrying out research or doing any other act or thing with those moneys or with moneys that include those moneys,

or for the assignment by the person to the Commonwealth of any property referred to in sub-paragraph (i) of this paragraph, of any patents for inventions or other property referred to in sub-paragraph (ii) of this paragraph or of any such invention or of any interest that he may have in any such invention; and

(c) provide for the payment by the person to the Commonwealth for the purposes of the Research Account, in the event of the disposal otherwise than to the Commonwealth of any property of a kind referred to in the last preceding paragraph, of an amount equal to the whole, or such part as the Minister determines—

(i) in the case of a disposal by way of sale or assignment for value—of the net proceeds of the sale or assignment; and

(ii) in any other case—of the value of the property as determined by the Minister.

8.—(1.) For the purposes of this Act there shall be a Dairying Research Committee.

Dairying
Research
Committee.

(2.) The functions of the Committee are to make recommendations to the Minister with respect to—

- (a) the amounts to be prescribed from time to time for the purposes of sub-section (1.) of section 7 and sub-section (1.) of section 11 of the *Dairying Research Levy Act 1972*; and
- (b) the expenditure of moneys standing to the credit of the Research Account.

9.—(1.) The Committee shall consist of—

Constitution
of Committee.

- (a) the Chairman of the Board;
- (b) three persons to represent the dairy farmers of Australia engaged in the production of whole milk for use in the manufacture of dairy products;
- (c) one person to represent the dairy farmers of Australia engaged in the production of whole milk for human consumption;
- (d) one person to represent butter and cheese factories and factories processing whole milk or whole milk products;
- (e) one person to represent the Department of Primary Industry;
- (f) one person to represent the organization known as the Australian Agricultural Council;
- (g) one person to represent the Commonwealth Scientific and Industrial Research Organization; and
- (h) subject to sub-section (7.) of this section, one person who is a member of the Board and is not a member of the Committee by virtue of a preceding paragraph of this sub-section.

(2.) The members referred to in paragraphs (b) to (h) (inclusive) of the last preceding sub-section—

- (a) shall be appointed by the Minister;
- (b) hold office, subject to this Act, for a period of three years; and
- (c) are eligible for re-appointment.

(3.) The members referred to in paragraph (b) of sub-section (1.) of this section shall be appointed from among persons whose names have been submitted to the Minister by the organization known as the Australian Dairy Farmers Federation or by another organization of dairy farmers.

(4.) The member referred to in paragraph (c) of sub-section (1.) of this section shall be appointed after consultation by the Minister with representatives of the dairy farmers referred to in that paragraph.

(5.) The member referred to in paragraph (d) of sub-section (1.) of this section shall be appointed after consultation by the Minister with representatives of the owners of the factories referred to in that paragraph.

(6.) The member referred to in paragraph (f) or (g) of sub-section (1.) of this section shall be appointed on the nomination of the organization that he is to represent.

(7.) The member referred to in paragraph (h) of sub-section (1.) of this section—

- (a) shall not be appointed unless the Chairman of the Committee informs the Minister that, in his opinion, it is desirable that such a member should be appointed; and
- (b) shall be appointed on the nomination of the Chairman of the Committee.

(8.) The Chairman of the Board ceases to be a member of the Committee if he ceases to be the Chairman of the Board.

(9.) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in connexion with his nomination.

(10.) The exercise of a power or the performance of a function by the Committee is not invalidated by reason only of there being a vacancy in the membership of the Committee.

Deputies of members.

10.—(1.) A member may, with the approval of the Minister, appoint a person to be his deputy.

(2.) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Committee, to attend that meeting and, when so attending, shall be deemed to be a member.

Removal, &c., of members and deputies.

11.—(1.) The Minister may remove a member or the deputy of a member from office for incapacity, incompetence or misbehaviour.

(2.) The Minister may, at the request of the organization by whom the name of a member was submitted to the Minister at the time of the member's appointment, terminate the appointment of that member.

(3.) The Minister may, after consultation with representatives of the dairy farmers referred to in paragraph (c) of sub-section (1.) of section 9 of this Act, terminate the appointment of the member referred to in that paragraph.

(4.) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice of it in writing to the Minister.

(5.) A member or the deputy of a member may resign his office by writing under his hand delivered to the Minister.

Chairman of Committee.

12.—(1.) The member of the Committee who is the Chairman of the Board shall be the Chairman of the Committee.

(2.) At a meeting of the Committee at which the Chairman of the Committee or his deputy is not present the members present shall elect one of their number to act as Chairman at that meeting.

13. At a meeting of the Committee—

Quorum and voting.

- (a) six members form a quorum;
- (b) the Chairman of the Committee or his deputy or, in their absence, the member elected by the members present to act as Chairman, shall preside;
- (c) all questions shall be decided by a majority of votes of the members present and voting; and
- (d) the Chairman of the Committee or other member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

14.—(1.) Subject to this section, members and deputies of members shall be paid, in respect of attendance at meetings of the Committee, or while engaged (whether in Australia or overseas), with the approval of the Committee, on business of the Committee, such fees, expenses and allowances as are prescribed.

Fees, expenses and allowances.

(2.) A member referred to in paragraph (e) or (g) of sub-section (1.) of section 9 of this Act or the deputy of such a member shall not be paid fees, expenses or allowances under the last preceding sub-section.

(3.) If a member or the deputy of a member is also a member of the Parliament of the Commonwealth or of a State, he shall not be paid fees, expenses or allowances under sub-section (1.) of this section, but shall, subject to the approval of the Minister, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Committee or of his engagement (whether in Australia or overseas), with the approval of the Committee, on business of the Committee.

15.—(1.) The Minister may, upon the recommendation of the Committee, appoint persons to advise the Committee in relation to any purpose in respect of which moneys may be expended from the Research Account.

Appointment of advisors.

(2.) A person appointed under the last preceding sub-section shall, subject to the next succeeding sub-section, be paid such fees, expenses and allowances (other than an annual allowance) as are prescribed.

(3.) An officer of the Public Service of the Commonwealth or of an authority of the Commonwealth shall not be paid fees, expenses or allowances under the last preceding sub-section.

16.—(1.) The Committee shall, as soon as practicable after the thirtieth day of June, One thousand nine hundred and seventy-three, and after each succeeding thirtieth day of June, make a report to the Minister on the operation of this Act during the year that ended on that date and the Minister shall cause the report to be laid before each House of the Parliament.

Annual report.

(2.) For the purposes of the last preceding sub-section, the period that commences on the date of commencement of this Act and ends on the thirtieth day of June, One thousand nine hundred and seventy-three, shall be deemed to be a year.

Regulations.

17. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
