



Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986

No. 59 of 1986

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SCHEDULE



Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986

No. 59 of 1986

**An Act to make provision consequent upon the enactment of
the *Dairy Produce Act 1986* and other related legislation,
and for related purposes**

[Assented to 24 June 1986]

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986*.

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Consequential Amendments) No. 59, 1986*

Commencement

2. (1) Sections 1, 2, 5, 9, 10 and 28 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The amendment made by section 10 shall be deemed to have taken effect on 1 July 1978.

(3) The remaining provisions of this Act shall come into operation on the day on which the provisions of Part VI of the *Dairy Produce Act 1986* come into operation.

Interpretation

3. In this Act, unless the contrary intention appears—

“Dairying Industry Stabilization Fund” means the fund of that name established in the accounts of the Australian Dairy Corporation;

“Industry Fund” has the same meaning as that term has for the purposes of the *Dairy Produce Act 1986*;

“Promotion Fund” has the same meaning as that term has for the purposes of the *Dairy Produce Act 1986*;

“new Promotion Fund” means the Dairy Produce Sales Promotion Fund established by section 89 of the *Dairy Produce Act 1986*;

“old Promotion Fund” means the Dairy Produce Sales Promotion Fund established by section 18 of the *Dairy Produce Sales Promotion Act 1958*.

Repeal of Acts

4. (1) The Acts set out in the Schedule are repealed.

(2) Notwithstanding the repeal of the *Dairy Produce Act 1924*, the provisions of that Act continue in force thereafter to the extent necessary to enable the Australian Dairy Corporation to continue to administer a pool in respect of a dairy product of a particular kind, being a pool that has been established under section 20AB of that Act in respect of a production period ending before 1 July 1986.

(3) For the purposes of the provisions of the *Dairy Produce Act 1924* as continued in force in accordance with sub-section (2), the separate accounts in the money of the Corporation that, immediately before 1 July 1986, each constituted a pool established under section 20AB of the *Dairy Produce Act 1924* shall continue to be so maintained in the money of the Corporation on and after that day until they are finally distributed in accordance with that section as so continued in force.

(4) Notwithstanding the repeal of the *Dairy Produce Act 1924*, section 29 of that Act continues to apply in relation to the preparation of an annual report of the Corporation in respect of its operations under that Act during the year ended on 30 June 1986 together with financial statements in respect of that year as if that section had not been repealed.

**PART II—AMENDMENTS OF THE DAIRY INDUSTRY
STABILIZATION ACT 1977**

Principal Act

5. The *Dairy Industry Stabilization Act 1977*¹ is in this Part referred to as the Principal Act.

Interpretation

6. Section 4 of the Principal Act is amended—

- (a) by inserting in sub-section (5) “commencing before 1 July 1986” after “each subsequent period of 12 months”;
- (b) by omitting from sub-section (7) “after consultation with the Advisory Committee”; and
- (c) by adding at the end the following sub-section:

“(9) References in this Act to provisions of the *Dairy Produce Act 1924* shall be read, on and after 1 July 1986, as if they were references to those provisions as continued in force in accordance with section 4 of the *Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986*.”

Rates of stabilization payments

7. Section 13 of the Principal Act is amended by omitting from paragraph (3) (e) “after consultation with the Advisory Committee”.

Corporation may make certain payments from Fund

8. Section 17 of the Principal Act is amended by omitting “after consultation with the Advisory Committee and”.

**PART III—AMENDMENT OF, AND TRANSITIONAL
PROVISIONS RELATING TO, THE DAIRY PRODUCE ACT
1924**

Principal Act

9. The *Dairy Produce Act 1924*² is in this Part referred to as the Principal Act.

Pools for returns on export sales of dairy products

10. Section 20AB of the Principal Act is amended by omitting “(12)” from sub-section (11) and substituting “(12A)”.

Continuation of appointments to Corporation

11. (1) A person who, immediately before the repeal of the *Dairy Produce Act 1924*, held office under the *Dairy Produce Act 1924* as the Chairman or Deputy Chairman of the Corporation holds office, on and after that repeal, as Chairperson, or as the deputy of the Chairperson, respectively,

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of the Corporation subject to sub-section (4) and to the *Dairy Produce Act 1986*.

(2) A person who, immediately before the repeal of the *Dairy Produce Act 1924*, held office under the *Dairy Produce Act 1924* as a member of the Corporation holds office, on and after that repeal, as an appointed member of the Corporation subject to sub-section (4) and to the *Dairy Produce Act 1986*.

(3) A person who, immediately before the repeal of the *Dairy Produce Act 1924*, held office under the *Dairy Produce Act 1924* as a member referred to in paragraph 5 (1) (e) of that Act or as the deputy of that member holds office, on and after that repeal, as the government member, or as the deputy of the government member, respectively, of the Corporation subject to sub-section (4) and to the *Dairy Produce Act 1986*.

(4) Members of the Corporation who hold office by virtue of sub-section (1), (2) or (3) hold that office during the pleasure of the Minister.

Terms and conditions

12. (1) The terms and conditions on which a person holding office under section 11 as Chairperson, deputy of the Chairperson or other member holds that office (not being terms and conditions in relation to matters expressly provided for by the *Dairy Produce Act 1986*) are—

- (a) in relation to matters in respect of which terms and conditions have not been determined under sub-section 33 (11) of the *Dairy Produce Act 1986* in relation to that person—the terms and conditions in relation to those matters on which that person held office as Chairman, Deputy Chairman or other member of the Corporation immediately before the repeal of the *Dairy Produce Act 1924*; or
- (b) in relation to matters in respect of which terms and conditions have been determined under sub-section 33 (11) of the *Dairy Produce Act 1986* in relation to the person—those terms and conditions.

(2) The terms and conditions determined under sub-section 33 (11) of the *Dairy Produce Act 1986* shall not be less favourable to a person than the terms and conditions on which the person held office as Chairman, Deputy Chairman or other member of the Corporation immediately before the repeal of the *Dairy Produce Act 1924*.

(3) Without limiting, by implication, the operation of sub-section (1) or (2) in any other respect, the person who, immediately before the repeal of the *Dairy Produce Act 1924*, was the Chairman of the Corporation, shall, while he holds office, on and after that repeal, as the Chairperson of the Corporation pursuant to section 11, notwithstanding sub-section 33 (4) of the *Dairy Produce Act 1986*, hold that office on a full-time basis and any terms and conditions of his employment that are determined under sub-section 33 (11) of that Act, any remuneration that is determined under section 36 of that Act or any allowance that is prescribed under section 36 of that Act, shall be determined or prescribed accordingly.

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(4) The terms and conditions of employment of a person who, immediately before the repeal of the *Dairy Produce Act 1924*, was employed by the Corporation and who continues to be so employed on that repeal shall not be less favourable than the terms and conditions of employment of the person immediately before that repeal.

(5) The remuneration and allowances payable to a person—

(a) while that person holds office under section 11; or

(b) if the person is an employee of the Corporation—while the person is so employed,

shall not be less than the remuneration and allowances that the person would have been paid if neither this Act nor the *Dairy Produce Act 1986* had not been passed.

Disclosure of interests

13. A disclosure made under section 12 of the Principal Act shall, for the purposes of the *Dairy Produce Act 1986*, be taken to have been made under section 35 of that Act.

Export licences

14. (1) Notwithstanding the repeal of the *Dairy Produce Act 1924*, a licence granted under regulations made for the purposes of sub-section 14 (1) of that Act has effect until, but only until, 30 September 1986, as if it had been granted under Part V of the *Dairy Produce Act 1986*.

(2) Nothing in this section shall be taken to imply that a licence referred to in sub-section (1) may not, in accordance with the provisions of Part V of the *Dairy Produce Act 1986*, be cancelled or suspended before 30 September 1986.

Approved banks

15. Where, immediately before the repeal of the *Dairy Produce Act 1924*, an approval of a bank as an approved bank for the purposes of the *Dairy Produce Act 1924* was in force, the approval shall be deemed to be an approval given under the *Dairy Produce Act 1986*.

Outstanding levy amounts to be paid to Corporation

16. (1) Where, if the *Dairy Produce Act 1924* had not been repealed, an amount would have been required to be paid to the Corporation under sub-section 21 (1) of that Act, being an amount equal to an amount received by the Commonwealth—

(a) as levy payable by virtue of paragraph 7 (c) or 11 (c) of the *Dairying Industry Research and Promotion Levy Act 1972*;

(b) in discharge of the liability of a person under sub-section 6 (1) of the *Dairying Industry Research and Promotion Levy Collection Act 1972* in respect of amounts of such levy; or

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- (c) as penalties under section 7 of the *Dairying Industry Research and Promotion Levy Collection Act 1972* to the extent that the penalties relate to the amounts of such levy,

the Commonwealth shall pay such an amount to the Corporation and the Consolidated Revenue Fund is appropriated to the extent necessary to permit that payment to be made.

(2) Money paid to the Corporation under sub-section (1) shall be treated for all purposes as money of the Corporation.

Accounts of the Corporation

17. Any account of the Corporation, being an account that was opened under section 22 of the *Dairy Produce Act 1924*, shall be treated, on and after the repeal of that Act, as if it had been opened under section 73 of the *Dairy Produce Act 1986*.

Approvals to continue in force

18. An approval of a borrowing, or of borrowings included in a class of borrowings, given by the Treasurer for the purposes of sub-section 23 (2) of the *Dairy Produce Act 1924* has effect, on and after the repeal of that Act, as if it were an approval of that borrowing, or of borrowings included in that class of borrowings, for the purposes of sub-section 75 (1) of the *Dairy Produce Act 1986*.

Investments of the Corporation

19. An investment of the money of the Corporation, not being an investment made for the purpose of the Dairying Industry Stabilization Fund, shall be treated, for the purposes of the *Dairy Produce Act 1986*, as if it were an investment duly made under sub-section 74 (2) of that Act.

Approved investments

20. Where, immediately before the repeal of the *Dairy Produce Act 1924*, an approval under paragraph 24 (2) (c) of that Act is in force, the approval shall be deemed to have been given under sub-paragraph 74 (2) (a) (iv) of the *Dairy Produce Act 1986*.

Returns

21. For the purpose of the continued operation, by virtue of section 8 of the *Acts Interpretation Act 1901*, of section 26 of the *Dairy Produce Act 1924*, the maximum penalty that may be imposed by a court for an offence against that section is—

- (a) in the case of a natural person—a fine of \$1,000 or imprisonment for 6 months, or both; or
- (b) in the case of a body corporate—a fine of \$5,000.

Guarantees

22. The repeal of the *Dairy Produce Act 1924* does not affect the continued operation of a guarantee given under paragraph 23 (1) (b) of that Act and proceedings on such a guarantee may be commenced, continued and completed as if this Act had not been passed.

The Dairying Industry Stabilization Fund

23. (1) The money of the Corporation that is treated in the accounts of the Corporation as money standing to the credit of the Dairying Industry Stabilization Fund immediately before the commencement of this section shall be deemed to have been credited, on that day, to the Industry Fund.

(2) An investment of the Corporation that was held by the Corporation for the purposes of the Dairying Industry Stabilization Fund immediately before the commencement of this section shall be taken to be held by the Corporation, on and after that day, for the purposes of the Industry Fund.

(3) The Corporation shall cause to be taken such steps, if any, as are necessary to effect the withdrawal of the money referred to in sub-section (1) from the account or accounts of the Dairying Industry Stabilization Fund and the payment of that money to the account of the Industry Fund.

Outstanding debits and credits of Dairying Industry Stabilization Fund

24. (1) An amount that would, if the Dairying Industry Stabilization Fund had continued to be maintained after the commencement of this section, have been paid out of that Fund shall, not later than 3 months after it would, in the opinion of the Corporation, have been so paid, be paid out of the Industry Fund and for that purpose, shall be treated as an expenditure authorised by section 88 of the *Dairy Produce Act 1986*.

(2) An amount that would, if the Dairying Industry Stabilization Fund had continued to be maintained after the commencement of this section, have been paid into that Fund shall, not later than 3 months after it would, in the opinion of the Corporation, have been so paid, be paid into the Industry Fund.

PART IV—TRANSITIONAL PROVISIONS RELATING TO THE DAIRY PRODUCE SALES PROMOTION ACT 1958

Winding-up of Dairy Produce Sales Promotion Fund

25. (1) The old Promotion Fund shall be taken, with effect from the commencement of this section, to have been wound-up.

(2) Amounts standing to the credit of the old Promotion Fund immediately before the day of commencement of this section shall be deemed to have been credited, on that day, to the new Promotion Fund.

(3) An investment that was held by the Corporation for the purposes of the old Promotion Fund immediately before the day of commencement of

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this section shall be taken to be held by the Corporation, on and after that day, for the purposes of the new Promotion Fund.

(4) The Corporation shall cause to be taken such steps, if any, as are necessary to effect the withdrawal of the money referred to in sub-section (2) from the account or accounts of the old Promotion Fund and the payment of that money to the account of the new Promotion Fund.

Outstanding debits and credits of old Promotion Fund

26. (1) An amount that would, if the *Dairy Produce Sales Promotion Act 1958* had not been repealed and the old Promotion Fund had not been wound-up, have been required under that Act, at any time after that repeal, to have been paid out of the Fund shall, not later than 3 months after it was, in the opinion of the Corporation, required to be so paid, be paid out of the new Promotion Fund and, for that purpose, shall be treated as an expenditure authorised by section 91 of the *Dairy Produce Act 1986*.

(2) An amount that would, if the *Dairy Produce Sales Promotion Act 1958* had not been repealed and the old Promotion Fund had not been wound-up, have been required under that Act, at any time after that repeal, to have been paid into that Fund after that repeal shall, not later than 3 months after it was, in the opinion of the Corporation, required to be so paid, be paid into the new Promotion Fund.

(3) Where an amount that is required to be paid into the new Promotion Fund represents an amount received by the Commonwealth—

- (a) as levy payable by virtue of paragraph 7 (b) or 11 (b) of the *Dairying Industry Research and Promotion Levy Act 1972*;
- (b) in discharge of the liability of a person under sub-section 6 (1) of the *Dairying Industry Research and Promotion Levy Collection Act 1972* in respect of amounts of such levy; or
- (c) as penalties under section 7 of the *Dairying Industry Research and Promotion Levy Collection Act 1972* to the extent that the penalties relate to amounts of such levy,

the Consolidated Revenue Fund is appropriated to the extent necessary to permit that payment to be made.

Persons appointed as advisers under Principal Act

27. Where a person has been appointed by the Corporation under section 21 of the *Dairy Produce Sales Promotion Act 1958* to advise the Corporation in relation to any purpose for which money may be expended from the old Promotion Fund the appointment of that person shall have effect, on and after the repeal of that Act as an appointment to advise the Corporation in relation to any purpose for which money may be expended from the new Promotion Fund.

**PART V—AMENDMENTS OF THE RURAL INDUSTRIES
RESEARCH ACT 1985**

Principal Act

28. The *Rural Industries Research Act 1985*⁴ is in this Part referred to as the Principal Act.

Schedule 1

29. Schedule 1 to the Principal Act is amended—

- (a) by inserting in Column 1 of Part II of the Schedule, below the item relating to levy imposed by section 10 of the *Dairying Industry Research and Promotion Levy Act 1972*—

“Levy imposed by section 5 of the *Dairy Produce Levy (No. 1) Act 1986*”;
and

- (b) by inserting in Column 2 of Part II of the Schedule, opposite the item inserted by paragraph (a)—

“So much of levy referred to in Column 1 as is received by virtue of sub-section 7(4) of the *Dairy Produce Levy (No. 1) Act 1986*”.

**PART VI—OPERATION OF RURAL INDUSTRIES RESEARCH
REGULATIONS**

Operation of Rural Industries Research Regulations

30. The Rural Industries Research Regulations, being Statutory Rules 1986 No. 2, as amended, shall have effect after the commencement of this section as if “levy imposed by section 5 of the *Dairy Produce Levy (No. 1) Act 1986*” were inserted in Column 2 of item 1 of Schedule 2 of those regulations after “levy imposed by section 10 of the *Dairying Industry Research and Promotion Levy Act 1972*”, and the Dairying Research Trust Fund established by virtue of the making of those regulations shall be deemed, with effect from the commencement of this section, to have been established also in relation to the levy imposed by section 5 of the *Dairy Produce Levy (No. 1) Act 1986*.

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SCHEDULE

Section 4

Dairy Industry Assistance Act 1977
Dairy Industry Assistance Levy Act 1977
Dairy Produce Export Control Act 1924
Dairy Produce Export Control Act 1935
Dairy Produce Export Control Act 1936
Dairy Produce Export Control Act 1937
Dairy Produce Export Control Act 1938
Dairy Produce Export Control Act 1942
Dairy Produce Export Control Act 1947
Dairy Produce Export Control Act 1953
Dairy Produce Export Control Act 1954
Dairy Produce Export Control Act 1958
Dairy Produce Export Control Act 1962
Dairy Produce Export Control Act 1963
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Dairy Produce Export Control Act 1972
Dairy Produce Act 1975
Dairy Produce Amendment Act 1977
Dairy Produce Amendment Act 1978
Dairy Produce Market Support Levy Act 1985
Dairy Produce Research and Sales Promotion Act 1958
Dairy Produce Research and Sales Promotion Act 1963
Dairy Produce Research and Sales Promotion Act 1964
Dairy Produce Research and Sales Promotion Act 1965
Dairy Produce Sales Promotion Act 1972
Dairy Produce Sales Promotion Act 1975
Dairy Produce Sales Promotion Amendment Act 1979
Dairying Industry Act 1962
Dairying Industry Act 1970.

NOTES

1. No. 51, 1977, as amended. For previous amendments, see No. 94, 1978; No. 80, 1982; and Nos. 39 and 64, 1983.
2. No. 38, 1924, as amended. For previous amendments, see No. 45, 1934; No. 70, 1935; No. 26, 1936; No. 20, 1937; No. 18, 1938; No. 24, 1942; No. 53, 1947 (as amended by No. 80, 1950); No. 37, 1953; No. 17, 1954; No. 74, 1958; No. 49, 1962; No. 79, 1963; No. 43, 1965; No. 93, 1966; No. 3, 1972; No. 216, 1973 (as amended by No. 20, 1974); No. 82, 1975; No. 79, 1976; No. 53, 1977; Nos. 36 and 96, 1978; No. 48, 1982; and No. 64, 1983.
3. No. 73, 1958, as amended. For previous amendments, see No. 80, 1963; No. 41, 1964; No. 44, 1965; No. 33, 1972; No. 216, 1973; No. 83, 1975; No. 79, 1976; and No. 14, 1979.
4. No. 102, 1985, as amended. For previous amendments, see No. 19, 1986.

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[*Minister's second reading speech made in—
House of Representatives on 7 May 1986
Senate on 28 May 1986*]