

EXPLANATORY STATEMENT

STATUTORY RULES 1986

No 116

Issued by the Authority of the Minister of State for Finance
for and on behalf of the Minister of State for Primary Industry

DAIRY PRODUCE ACT 1986

DAIRY PRODUCE REGULATIONS

The principal Act which implements the new dairy marketing arrangements which become operative on 1 July 1986 is the Dairy Produce Act 1986.

The Act deals with the marketing and assistance arrangements of dairy produce, the reform of the Australian Dairy Corporation, the regulation of dairy exports, the collection of levies imposed by the Dairy Produce Levy (No 1) Act 1986 and the Dairy Produce Levy (No 2) Act 1986 and with incidental matters.

The purpose of the Dairy Produce Regulations made under the Act is to lay down detailed requirements for export control, for the keeping of records and the furnishing of returns for levy purposes; and to prescribe the periods for payments of market support levy in the initial stages of the new arrangements. The Regulations also :

- . make the Australian Dairy Corporation liable for payroll taxes imposed by the States and the Northern Territory
- . prescribe certain foreign countries, export to which will attract special rates of market support

- . declare certain dairy produce to be underwritten dairy produce
- . prescribe the method of assessment of "trend price", an essential concept in calculating the market support rates payable on underwritten produce.

Requirements for export control

Sub-section 52(2) of the Act provides that the regulations may declare that the export of dairy produce of a particular kind is prohibited. Regulation 3 declares butter, butteroil, cheese, casein, skim milk powder, whole milk powder or buttermilk powder for the purposes of the sub-section.

The effect of the declaration is that export of these products can only be undertaken either by the Australian Dairy Corporation or a person licensed by the Corporation.

Sub-section 52(1) provides that the regulations may prescribe conditions for the export of the declared products. Regulation 4 requires that a licensee can only export in circumstances permitted by or under the International Dairy Arrangement. Australia subscribes to this arrangement under which minimum prices are established for certain dairy products traded internationally.

Records and returns for levy purposes

The levies involved are the four levies on the milk fat content of whole milk or whole milk products and the levy on defined dairy products imposed by the Dairy Produce Levv (No.1) Act 1986, and the levies imposed by the Dairy Produce Levy (No.2) Act 1986.

Sub-regulation 5(1) requires purchasers of leviabile dairy produce to keep monthly records showing the quantities of such purchases, the milk fat content of the purchases, and the total levy amounts payable on the purchases.

Sub-regulation 5(2) requires the proprietor of a factory producing dairy products to keep monthly records of quantities produced, purchased, used in the production of other dairy products, sold for export, sold to the Corporation and otherwise sold. Monthly records must also be kept of imports of exported Australian products, disposals during the month other than by sale or use, stock at the beginning and end of the month, and information on production periods.

Regulation 6 requires a purchaser of leviabile dairy produce to furnish a return each month to the Secretary of the Department detailing those purchases, their milk fat content and the levy payable, with a declaration that the information is true and correct.

A requirement to furnish monthly returns is imposed by regulation 7 also on persons producing or importing dairy products. The requirement also applies to the Corporation. The return must show monthly sales of dairy products other than exports or sales to the Corporation, monthly usage of dairy products in the production of other products, and also total levy payable.

A person required to furnish a return may appoint an authorized agent to make the necessary declaration. The instrument of appointment must be in accordance with the prescribed form (see the Schedule to the Regulations).

Prescribed period for payment of the market support levy

Under sub-section 61(1) of the Act, each of the four milk fat levies is due and payable at the expiration of "the relevant period" after the last day of the month in which the dairy produce is sold. "The relevant period" is 28 days (paragraph 61(2)(a) of the Act), but in the case of the market support levy the regulations may prescribe a longer period for particular leviable produce.

Regulation 10 provides longer periods for payment of the market support levy for produce sold in July, August or September 1986 (89 days); for produce sold in October 1986 (58 days); and for produce sold in November 1986 (59 days).

The purpose of these extensions of the period for payment is to assist industry to handle any cash flow problems that might develop during the phasing-in of the new arrangements.

Liability of the Corporation for payroll taxes

The Australian Dairy Corporation has been liable for these State taxes by virtue of regulations made under the Dairy Produce Act 1924 since 1976. Regulation 11 continues this current liability.

Prescribed foreign countries

In usual circumstances the rates of market support payments would be established in accordance with the formula laid down in sub-section 95(3) of the Act or by determination of the Corporation under sub-section 96(2). Sub-section 97(1) of the Act however, permits the Corporation to determine special rates of market support payment for exports to countries which have imposed quantity restrictions on the import of Australian dairy produce. The Corporation may also under the sub-section determine special market support rates in respect of exports to foreign countries "prescribed" for the purposes of Section 97.

Regulation 12 prescribes fourteen countries. The reason for special support rates for exports to these countries is to establish rates that preserve the historically determined pattern of equity between manufacturers which have resulted from the way export sales to such markets have been dealt with in the past.

Declaration of certain dairy produce as underwritten dairy produce

Special rates of market support payment may also be paid by virtue of Sub-section 98(1) of the Act. That sub-section provides that the Regulations may declare dairy produce of a kind that has been declared by the Corporation to be prescribed dairy produce to be "underwritten dairy produce" with effect from 1 July 1986. The effect of such a declaration is to make such produce eligible for special market support payments calculated in accordance with the formula set out in sub-section 98(2).

This arrangement is designed to support a minimum export return for specified products, which may involve market support rates for those products higher than would be calculated under the standard market support rate formula for prescribed dairy produce set out in sub-section 95(3) of the Act.

The products listed in Regulation 13 have been declared by the Corporation to be prescribed dairy produce. The effect of the Regulation is to declare them also as "underwritten dairy produce".

Method of assessment of "trend price"

The formula for establishing special market support rates for "underwritten dairy produce" (above) is set out in sub-section 98(2) of the Act. An essential element in the formula is the "trend price" which is to be ascertained by the Bureau of Agricultural Economics, in a manner prescribed by the regulations". The manner of ascertainment is set out in regulation 14.

SR 191/86