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Statutory Rules 1986 No. 1

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Dairy Produce Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and pursuant to section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Dairy Produce Act 1986*.

Dated 27 JUNE 1986.

N. M. SCUDLARK

Governor-General

By His Excellency's Command,

PETER WALSH

Minister of State for Finance for and on behalf of
the Minister of State
for Primary Industry

PART I — PRELIMINARY

Citation

1. These Regulations may be cited as the Dairy Produce Regulations.

Interpretation

2. (1) In these Regulations, unless the contrary intention appears—
“casein” includes all caseinates and co-precipitates;
“controlled dairy produce” means dairy produce of a kind specified in regulation 3;
“month” means one of the 12 months of the year;
“the Act” means the *Dairy Produce Act 1986*.
(2) In these Regulations, unless the contrary intention appears—
(a) a reference to a person who purchases relevant dairy produce shall be read as a reference to a person who purchases from the producer relevant dairy produce on which levy is imposed; and
(b) a reference to an authorised agent shall be read as a reference to a person appointed under regulation 8 to be an authorised agent

PART II — EXPORT CONTROL

Prohibition of export of certain dairy products

3. For the purposes of sub-section 52 (2) of the Act, the export from Australia of butter, butteroil, cheese, casein, skimmilk powder, whole milk powder or buttermilk powder is declared to be prohibited.

Conditions of export of controlled dairy exports

4. (1) It is a prescribed condition for the purposes of sub-section 52 (1) of the Act that a licensee shall not export controlled dairy produce otherwise than in circumstances permitted by or under the Arrangement.

(2) In this regulation—

“Arrangement” means the International Dairy Arrangement done at Geneva on 12 April 1979, being that arrangement as in force at noon on 5 June 1985;

“licensee” means the holder of a licence granted under section 56 of the Act.

PART III—RECORDS, RETURNS AND PAYMENT OF LEVIES

Records to be kept

5. (1) A person who has, in any month, purchased relevant dairy produce shall keep proper records showing, in respect of that month—

- (a) the quantity of whole milk purchased by the person in the month;
- (b) the quantities of each kind of whole milk products purchased by the person in the month;
- (c) the quantity of milk fat contained in the whole milk purchased by the person in the month;
- (d) the quantity of milk fat contained in each kind of whole milk products purchased by the person during the month;
- (e) the total amount payable in levies on the milk fat content of the whole milk purchased by the person during the month; and
- (f) the total amount payable in levies on the milk fat content of each kind of whole milk products purchased by the person during the month.

(2) The proprietor of a factory at which dairy products are produced shall keep proper records showing, in respect of each month—

- (a) the quantity of each kind of dairy products produced at the factory in that month;
- (b) the quantity of each kind of dairy products purchased by the proprietor in that month;
- (c) the quantity of each kind of dairy products used by the proprietor in the production of dairy products in that month;

- (d) the quantity of each kind of dairy products sold by the proprietor in that month for export;
- (e) the quantity of each kind of dairy products sold by the proprietor in that month to the Corporation;
- (f) the quantity of each kind of dairy products sold by the proprietor in that month otherwise than for export or to the Corporation;
- (g) the quantity of each kind of dairy products, being products that had been exported from Australia, imported by the proprietor into Australia in that month;
- (h) the quantity of each kind of dairy products disposed of by the proprietor in that month otherwise than by sale or use in the production of dairy products;
- (j) the quantity of each kind of dairy products held in stock by the proprietor on the first day of that month;
- (k) the quantity of each kind of dairy products held in stock by the proprietor at the end of that month; and
- (l) with respect to each kind of dairy products referred to in paragraph (b), (c), (d), (e), (f), (g), (h), (j) or (k), the production period in which the dairy products of that kind were produced.

Returns of purchases of relevant dairy produce

6. (1) A person who has, in any month, purchased relevant dairy produce shall, on or before the twenty-eighth day of the next succeeding month, furnish to the Department a return containing such of the following particulars with respect to the relevant dairy produce so purchased as are applicable:

- (a) the month in which the person purchased the relevant dairy produce;
- (b) the quantity of milk fat contained in the whole milk purchased in that month;
- (c) the quantity of milk fat contained in each kind of the whole milk products purchased in that month;
- (d) the total amount payable in levies on the milk fat content of the whole milk purchased in that month;
- (e) the total amount payable in levies on the milk fat content of each kind of the whole milk products purchased in that month;
- (f) the total amount payable in levies in respect of the relevant dairy produce.

(2) A return referred to in sub-regulation (1) shall—

- (a) state the full name and address of the person furnishing the return; and
- (b) contain a declaration signed by the person furnishing the return or his ^{or her} authorised agent, stating that the information furnished in the return is true and correct in every particular.

(3) A return made pursuant to sub-regulation (1) shall be furnished to the Department—

- (a) in the case of a return that relates to relevant dairy produce purchased in a State—by lodging the return at the principal office of the Department in the capital city of that State; or
- (b) in the case of any other return—by lodging the return at the principal office of the Department in Canberra.

Returns in relation to dairy products

7. (1) This regulation applies to—

- (a) a person who is the proprietor of a factory at which dairy products are produced;
- (b) a person who is the importer of dairy products referred to in section 5 or 8 of the second Levy Act; and
- (c) the Corporation.

(2) Where, in any month, dairy products on which levy is imposed have been sold by or on behalf of a person to whom this regulation applies, or have been used by the person in the production of other products, whether dairy products or not, the person shall, on or before the fourteenth day after the last day of the month immediately following the month in which the dairy products were sold or so used, furnish to the Department a return containing such of the following particulars in respect of that last-mentioned month as are applicable:

- (a) the quantity of each kind of dairy products sold in that month, other than dairy products that have been exported from Australia or sold to the Corporation;
- (b) the quantity of each kind of dairy products used by the person in that month in the production of other products;
- (c) in respect of each kind of dairy products referred to in paragraph (a) or (b), the total amount of levy payable in respect of the dairy products so sold or used.

(3) A return referred to in sub-regulation (2) shall—

- (a) state the full name and address of the person furnishing the return; and
- (b) contain a declaration, signed by the person furnishing the return or his ^{or her} authorised agent, stating that the information furnished in the return is true and correct in every particular.

(4) A return made pursuant to sub-regulation (1) shall be furnished to the Department by lodging it at the principal office of the Department in Canberra.

Authorised agent

8. (1) A person who is required to furnish a return under regulation 6 or 7 may, by instrument in writing signed by that person, appoint a person to be his or her authorised agent for the purpose of signing on his or her behalf the declaration contained in that return.

(2) An instrument referred to in sub-regulation (1) shall be in accordance with the form in the Schedule.

(3) A person who, pursuant to sub-regulation (1), appoints a person to be his or her authorised agent for the purpose of signing on his or her behalf the declaration contained in a return shall lodge the instrument of appointment at the place at which the return is required by these Regulations to be lodged.

Execution of documents by a company

9. (1) Where these Regulations provide that a declaration or instrument of appointment shall be signed by a person and that person is a company, the declaration or instrument of appointment may be signed on behalf of the company by a director or a secretary of the company.

(2) In sub-regulation (1), a reference to a company shall be read as including a reference to a co-operative society incorporated under a law of a State or Territory.

Prescribed periods—paragraph 61 (2) (b) of the Act

10. For the purposes of paragraph 61 (2) of the Act—

- (a) the period of 89 days is prescribed in relation to the market support levy that is payable upon the milk fat content of relevant dairy produce that is sold by the producer of the produce in the month of July, August or September 1986;
- (b) the period of 58 days is prescribed in relation to the market support levy that is payable upon the milk fat content of relevant dairy produce that is sold by the producer of the produce in the month of October 1986; and
- (c) the period of 59 days is prescribed in relation to the market support levy that is payable upon the milk fat content of relevant dairy produce that is sold by the producer of the produce in the month of November 1986.

PART IV — FINANCE

Liability of Corporation to State taxes

11. For the purposes of sub-section 83 (3) of the Act, sub-section 83 (2) of the Act does not apply in relation to taxation under any of the following laws or under any of those laws as amended and in force from time to time—

- (a) Pay-roll Tax Act, 1971 of the State of New South Wales;
- (b) *Pay-roll Tax Act* 1971 of the State of Victoria;
- (c) *Pay-roll Tax Act* 1971 of the State of Queensland;
- (d) *Pay-roll Tax Act, 1971* of the State of Western Australia;
- (e) Pay-roll Tax Act, 1971 of the State of South Australia;
- (f) *Pay-roll Tax Act* 1971 of the State of Tasmania;
- (g) *Pay-roll Tax Act* of the Northern Territory.

Prescribed foreign countries—section 97 of the Act

12. Each of the following foreign countries is prescribed for the purposes of section 97 of the Act:

- (a) Belgium;
- (b) Canada;
- (c) Denmark;
- (d) France;
- (e) Federal Republic of Germany;
- (f) Great Britain;
- (g) Greece;
- (h) Ireland;
- (j) Italy;
- (k) Luxembourg;
- (l) Netherlands;
- (m) New Zealand;
- (n) Portugal;
- (o) Spain.

Underwritten dairy produce—sub-section 98 (1) of the Act

13. For the purposes of sub-section 98 (1) of the Act, each of the following kinds of dairy produce that have been declared by the Corporation to be prescribed dairy produce are declared to be underwritten dairy produce with effect from 1 July 1986:

- (a) dairy produce that consists of butter or butteroil;
- (b) cheese other than cheese of a variety that is prescribed by regulations for the purposes of paragraph (c) of the definition of “dairy product” in sub-section 4 (1) of the first Levy Act;
- (c) dairy produce that consists of or contains skimmilk powder or buttermilk powder;
- (d) dairy produce that consists of or contains casein;
- (e) whole milk powder.

Calculation of trend price of underwritten dairy produce

14. (1) For the purposes of sub-section 98 (2) of the Act, the trend price per unit in respect of each unit of dairy produce of a particular kind that is underwritten dairy produce in respect of a financial year shall be ascertained by means of a time trend analysis of average export prices over a period of 8 years using the statistical method known as ordinary least squares analysis in accordance with sub-regulation (2).

(2) The assessment referred to in sub-regulation (1) in respect of dairy produce of a particular kind shall be performed—

- (a) by estimating the average export price for each unit of underwritten dairy produce of that kind for each of the 7 financial years immediately preceding the financial year in respect of which the

trend price is to be ascertained and forecasting the estimated average export price per unit of the underwritten dairy produce for the financial year in respect of which the trend price is to be ascertained; and

- (b) applying an estimated trend line derived from the statistics referred to in paragraph (a) to obtain the value for the trend price per unit of the underwritten dairy produce in respect of the year for which the trend price is to be ascertained.

SCHEDULE

Regulation 8

FORM

COMMONWEALTH OF AUSTRALIA

DAIRY PRODUCE REGULATIONS

APPOINTMENT OF AUTHORISED AGENT

To the Secretary, Department of Primary Industry, Canberra

I, *(full name and address)* hereby appoint—

(full name and address)

a specimen of whose signature appears below, to be my authorised agent for the purpose of signing on my behalf the declaration contained in any return that I am required to furnish to you under regulation 6 or 7 of the Dairy Produce Regulations.

Dated 19 .

(Signature of person appointing authorised agent)

Authorised agent

NOTE

- 1. Notified in the *Commonwealth of Australia Gazette* on k 1986.

30 June