

Dairying Industry Levy

No. 43 of 1970

An Act to impose a Levy upon certain Dairy Produce
produced in Australia.

[Assented to 24 June 1970]

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

Short title.

1. This Act may be cited as the *Dairying Industry Levy Act 1970*.

Commence-
ment.

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

Collection Act
to be read as
one with this
Act.

3. The *Dairying Industry Levy Collection Act 1970* shall, for the purposes of interpretation, be read as one with this Act.

Interpretation.

4.—(1.) In this Act, unless the contrary intention appears—

“authorized person”, means—

- (a) a person appointed by the Minister, by instrument in writing, to be an authorized person for the purposes of the provision in which the expression occurs; or
- (b) a person included in a class of persons appointed by the Minister, by instrument in writing, to be authorized persons for the purposes of the provision in which the expression occurs;

“butter” means butter produced from cows' milk or from cream derived from cows' milk;

“butteroil” does not include butteroil made, directly or indirectly, from butter;

“casein” means casein produced from—

- (a) skimmed cows' milk;
- (b) buttermilk; or
- (c) skimmed cows' milk and buttermilk,

and includes co-precipitates of milk protein and caseinates;

“cheese” means cheese produced from cows' milk, but does not include cheese produced from other cheese;

“dairy produce” means—

- (a) butter, cheese, casein or butteroil; or
- (b) such other products (not including a product that is a processed milk product for the purposes of the *Processed Milk Products Bounty Act 1962–1968*) produced from

cows' milk or a constituent part of cows' milk, whether with or without the addition of any other substance, as are prescribed from time to time;

"levy" means an amount of the levy;

"the Council" means the organization known as the Australian Dairy Industry Council;

"the levy" means the levy imposed by this Act.

(2.) For the purposes of this Act, the time when dairy produce is produced is the time when the processes of production of the dairy produce (excluding, in the case of cheese, any maturation process in respect of the cheese) are completed.

5.—(1.) For the purposes of this Act, the period commencing on the date prescribed for the purposes of section 6 of this Act with respect to a kind of dairy produce and ending on the following thirtieth day of June, and each subsequent period of twelve months, is a production period with respect to that kind of dairy produce.

Production periods.

(2.) The regulations may provide that a production period with respect to a kind of dairy produce shall be divided into two or more parts, each of which shall be a production period with respect to that kind of dairy produce.

(3.) Regulations shall not be made in accordance with the last preceding sub-section dividing a production period after a rate of levy becomes applicable, in accordance with section 7 of this Act, in respect of dairy produce of the kind concerned produced during that production period.

6.—(1.) Subject to this Act, a levy is imposed on dairy produce produced at a factory on or after such date as is prescribed with respect to a kind of dairy produce in which the first-mentioned dairy produce is included.

Imposition of levy.

(2.) A date prescribed for the purposes of the last preceding sub-section shall be a date not earlier than the date of notification in the *Gazette* of the regulation by which it is prescribed.

(3.) The rate of the levy is the rate of levy applicable in accordance with the next succeeding section.

7.—(1.) Subject to this section, the regulations may fix a rate of levy in respect of dairy produce of a specified kind produced during a specified production period.

Rate of levy.

(2.) Regulations under the last preceding sub-section shall not be notified in the *Gazette* before the expiration of six months, or after the expiration of two years, from the end of the production period to which the regulations relate.

(3.) Where, at the expiration of two years from the end of a production period with respect to a kind of dairy produce, a rate of levy has not been fixed in respect of dairy produce of that kind produced during that production period, the rate of levy applicable to that dairy produce is a rate equal to the rate of the provisional levy imposed by this Act that was applicable to dairy produce of that kind produced on the last day of that production period.

(4.) Regulations that prescribe a product for the purposes of paragraph (b) of the definition of "dairy produce" in sub-section (1.) of section 4 of this Act shall also prescribe a maximum rate of levy in respect of that product.

(5.) A rate of levy shall not exceed—

- (a) in the case of butter—Twenty-five dollars per hundredweight;
- (b) in the case of cheese—Fifteen dollars per hundredweight;
- (c) in the case of casein—Ten dollars per hundredweight;
- (d) in the case of butteroil—Thirty dollars per hundredweight; or
- (e) in the case of a product that is prescribed for the purposes of paragraph (b) of the definition of "dairy produce" in sub-section (1.) of section 4 of this Act—the maximum rate of levy prescribed in respect of the product in accordance with the last preceding sub-section.

Levy payable
by proprietor
of factory.

8. Levy in respect of any dairy produce is payable by the person who is the proprietor of the factory at which the dairy produce is produced at the time when it is produced.

Exemptions.

9.—(1.) Where, during a production period with respect to a kind of dairy produce, the amount of dairy produce of that kind (excluding dairy produce on which the levy is not imposed by virtue of the next succeeding sub-section) produced at a factory does not exceed, in weight, the product of five hundredweight (or such greater weight as is prescribed in relation to that production period) and the number of complete months in that production period, the levy is not imposed on dairy produce of that kind produced at that factory during that production period.

(2.) The regulations may exempt from the levy such dairy produce of a kind on which the levy is imposed as is of a description specified in the regulations.

Cessation of
imposition
of the levy.

10. Where the proprietor of a factory at which has been produced dairy produce on which the levy is imposed satisfies an authorized person—

- (a) that the dairy produce—
 - (i) has been destroyed; or
 - (ii) has been damaged, or has deteriorated, to such an extent that it has become unsaleable; and
- (b) that, at the time of the destruction, damage or deterioration, levy on the dairy produce had not become due and payable,

the authorized person shall direct that the levy is to cease to be imposed on the dairy produce.

11. For the purpose of securing the collection of the levy, a provisional levy, in accordance with the *Dairying Industry Collection Act 1970*, is imposed on dairy produce on which the levy is imposed. Imposition of
provisional
levy.

12.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2.) Before making regulations for the purposes of—

(a) paragraph (b) of the definition of “dairy produce” in subsection (1.) of section 4 of this Act; or

(b) section 5, 6, 7 or 9 of this Act,

the Governor-General shall take into consideration any recommendation with respect to the proposed regulations made to the Minister by the Council.
