

Dairying Industry Equalization Legislation Referendum

No. 46 of 1970

An Act relating to the Bringing into Operation of certain Acts relating to the Dairying Industry.

[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:—

1. This Act may be cited as the *Dairying Industry Equalization Legislation Referendum Act 1970*. Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

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

“milk” includes cream;

“producer”, in relation to a referendum, means a person who has, at any time in the qualifying period in relation to the referendum, supplied milk to a butter factory, or to a cheese factory, in Australia;

“referendum” means a referendum under this Act;

“the polling day”, in relation to a referendum, means the day on which the poll at the referendum is to close;

“the qualifying period”, in relation to a referendum, means the period of twelve months immediately preceding the polling day for the referendum;

“the question” means the question set out in sub-section (1.) of section 6 of this Act.

(2.) For the purposes of this Act—

- (a) the Australian Capital Territory shall be deemed to be part of the State of New South Wales;
- (b) the Northern Territory shall be deemed to be part of the State of South Australia;
- (c) a corporation shall be deemed to be ordinarily resident in the State in which its principal office in Australia is situated;
- (d) a producer (not being a corporation) who is ordinarily resident outside Australia shall be deemed to be ordinarily resident in the State in which the factory or factories to which, during the qualifying period, he has supplied milk is or are situated or, if those factories are situated in two or more States, the State in which the factory or factories to which, during the qualifying period, he has supplied the greater or greatest quantity of milk is or are situated; and
- (e) a person shall be deemed to have supplied milk that has been supplied jointly by that person and any other person or persons.

Proclamation of commencement of certain Acts.

4. A proclamation for the purpose of bringing into operation the *Dairying Industry Equalization Act* 1970, the *Dairying Industry Levy Act* 1970 or the *Dairying Industry Levy Collection Act* 1970 shall not be made unless it is recited in the Proclamation that a majority of the voters voting at a referendum under this Act voted in favour of those Acts being brought into operation.

More than one referendum may be held.

5. More than one referendum may be held under this Act, but a period of at least one year shall elapse between the polling day for one referendum and the polling day for the next referendum.

Referendum.

6.—(1.) The Minister may, by notice in the *Gazette*, direct that a referendum be held under this Act on the following question:—

Are you in favour of the *Dairying Industry Equalization Act* 1970, the *Dairying Industry Levy Act* 1970 and the *Dairying Industry Levy Collection Act* 1970 being brought into operation?

(2.) The Minister shall, in a direction under the last preceding sub-section, specify the day on which, and the time on that day at which, the poll at the referendum shall close.

(3.) At a referendum, the question shall be submitted, in accordance with this Act and the regulations, to a poll of producers entitled to vote at the referendum.

(4.) Each ballot-paper at a referendum shall set out the question in the terms in which the question is set out in sub-section (1.) of this section.

(5.) Each ballot-paper at a referendum shall include a direction to the voter to indicate whether he votes " Yes " or " No " to the question.

(6.) A person may vote at a referendum by post, in accordance with the regulations, or in any other manner permitted by the regulations.

(7.) Only votes received by a Deputy Returning Officer before the closing of the poll shall be counted.

(8.) Particulars of the voting at a referendum shall be published as prescribed.

7. If, on or before the date prescribed for the purposes of this section in relation to a referendum, there is received by the Minister either or both of the following:—

Distribution
of arguments.

- (a) an argument in favour of an affirmative answer to the question, consisting of not more than two thousand words, authorized as prescribed;
- (b) an argument in favour of a negative answer to the question, consisting of not more than two thousand words, authorized as prescribed,

the Minister shall cause a pamphlet to be printed containing the argument or arguments, and each ballot-paper transmitted or delivered in accordance with section 14 of this Act shall be accompanied by a copy of the pamphlet.

8.—(1.) Subject to this section, a person is entitled to vote at a referendum if, at the time of voting, he—

Entitlement
to vote.

- (a) is enrolled on the roll for a State prepared under this Act;
- (b) is a producer in relation to the referendum;
- (c) is the owner or one of the owners of cows that are kept wholly or partly for the purpose of the production of milk for supply to a butter factory, or to a cheese factory, in Australia; and
- (d) possesses such additional qualifications as are prescribed.

(2.) A person (other than a corporation or the separate person who is to be deemed to be constituted by any personal representative or personal representatives or trustee or trustees) is not entitled to vote at a referendum unless he has attained the age of twenty-one years.

(3.) A person is not entitled to vote more than once at a referendum.

(4.) For the purposes of this section, a person voting in the capacity of personal representative or trustee shall be taken to be distinct from the same person voting in his own right or in another capacity of personal representative or trustee.

9.—(1.) The Chief Electoral Officer shall be the Returning Officer for the purposes of a referendum.

Returning
Officer and
Deputy
Returning
Officer.

(2.) The Returning Officer shall appoint a Deputy Returning Officer for each State.

**Rolls of
producers.**

10.—(1.) As soon as practicable after the notification in the *Gazette* of a direction to hold a referendum, the Secretary to the Department of Primary Industry shall, on the basis of information obtained by him from any butter factory or cheese factory or any other source that he thinks appropriate, prepare in respect of each State a roll containing the names and addresses of persons appearing to him to be persons who are producers and are ordinarily resident in the State.

(2.) The Secretary shall deliver the rolls prepared by him to the Returning Officer and those rolls, as added to or altered in accordance with this Act and the regulations, shall be the rolls for the respective States for the purposes of the referendum.

**Entitlement to
apply for
enrolment.**

11.—(1.) Subject to this section, a person who is not enrolled in accordance with the last preceding section is entitled to apply for enrolment on the roll for a State if he—

- (a) is ordinarily resident in the State;
- (b) is a producer in relation to the referendum;
- (c) is the owner or one of the owners of cows that are kept wholly or partly for the purpose of the production of milk for supply to a butter factory, or to a cheese factory, in Australia; and
- (d) possesses such additional qualifications as are prescribed.

(2.) A person (other than a corporation or the separate person who is to be deemed to be constituted by any personal representative or personal representatives or trustee or trustees) is not entitled to apply for enrolment unless he has attained the age of twenty-one years or will attain that age on or before the polling day.

(3.) A person entitled to apply for enrolment on the roll for a State may, at any time before the poll closes, apply accordingly, in the prescribed manner, to the Deputy Returning Officer for the State and the Deputy Returning Officer shall, if he is satisfied that the person is entitled to make the application and is not already enrolled, enter the name and address of the person on the roll.

**Removal and
transfer of
names and
correction of
errors.**

12. A Deputy Returning Officer for a State may—

- (a) remove from the roll for the State the name and address of a person who he is satisfied is not entitled to vote at the referendum or is ordinarily resident in another State;
- (b) enter on the roll for the State the name and address of a person appearing to be entitled to vote and to be ordinarily resident in that State, being a person whose name and address has been removed from the roll for another State; and
- (c) make such corrections to names and addresses on the roll for the State as he is satisfied are necessary by reason of error or change of name or address.

13.—(1.) Where the title to cows kept wholly or partly for the purpose of the production of milk for supply to a butter factory, or to a cheese factory, in Australia is vested in the personal representative or personal representatives of a deceased person, that personal representative or those personal representatives shall, for the purposes of this Act, be deemed—

Personal
representatives
and trustees.

- (a) to be, in his or their capacity as personal representative or personal representatives, a separate person;
- (b) to have supplied any milk supplied by the deceased person before his death or by any predecessor in the office of personal representative; and
- (c) to be ordinarily resident—
 - (i) in the State in which the deceased person ordinarily resided; or
 - (ii) if the deceased person ordinarily resided outside Australia—in the State in which the factory or factories to which, during the qualifying period, the milk referred to in the last preceding paragraph has been supplied is or are situated or, if those factories are situated in two or more States, the State in which the factory or factories to which, during the qualifying period, the greater or greatest quantity of that milk was supplied is or are situated.

(2.) Where the title to cows kept wholly or partly for the purpose of the production of milk for supply to a butter factory, or to a cheese factory, in Australia is vested in a trustee or trustees, the trustee or trustees shall, for the purposes of this Act, be deemed—

- (a) to be, in his or their capacity as trustee or trustees, a separate person;
- (b) to have supplied any milk supplied by the creator of the trust or, where the cows are part of the estate of a bankrupt, by the bankrupt or by any predecessor in the office of trustee; and
- (c) to be ordinarily resident in the State in which the factory or factories to which, during the qualifying period, the milk referred to in the last preceding paragraph has been supplied is or are situated or, if those factories are situated in two or more States, the State in which the factory or factories to which, during the qualifying period, the greater or greatest quantity of that milk was supplied is or are situated.

14.—(1.) The Deputy Returning Officer for a State shall transmit by post or deliver to every person enrolled on the roll for that State a ballot-paper in accordance with the prescribed form.

Transmission
of ballot-
papers.

(2.) As far as practicable, ballot-papers shall be transmitted under this section at least thirty days before the polling day.

Offences.

15.—(1.) Where, on the twenty-first day before the polling day in relation to a referendum, a person—

- (a) is entitled to apply for enrolment under this Act;
- (b) is not so enrolled; and
- (c) has not duly applied for enrolment,

that person shall apply for enrolment, in accordance with this Act and the regulations, not later than seven days after that first-mentioned day.

Penalty: Ten dollars.

(2.) A person who has, within the seven days referred to in the last preceding sub-section, ceased to be entitled to apply for enrolment is not liable to prosecution under that sub-section.

(3.) For the purposes of this section, if a person has received a ballot-paper for a referendum, it shall be conclusively presumed that, in relation to the referendum, he was enrolled at the time he received the ballot-paper.

(4.) A person who—

- (a) becomes, not less than seven days before the polling day, entitled to vote at a referendum;
- (b) remains so entitled up to the time at which the poll closes; and
- (c) fails to vote at the referendum,

is guilty of an offence punishable by a fine not exceeding Ten dollars.

(5.) Where two or more personal representatives or trustees would be guilty of an offence against this section if they were one person, each of them shall be deemed to be guilty of the offence.

(6.) It is a defence to a prosecution for an offence against this section if the person charged satisfies the court that there was a reasonable excuse for the failure out of which the charge arises or, in the case of a prosecution of a personal representative or trustee, that he could not reasonably have been expected to ensure that that failure did not occur.

(7.) A prosecution shall not be instituted under this section against a person who does not ordinarily reside in Australia.

(8.) Proceedings for an offence against this section shall not be instituted except with the consent in writing of the Minister or of a person authorized in writing by the Minister to give such consents.

(9.) In a prosecution for an offence against sub-section (4.) of this section in relation to a referendum, a certificate under the hand of the Deputy Returning Officer for a State certifying—

- (a) that a person was, on the eighth day before the polling day, enrolled on the roll for that State; and
- (b) that that person did not vote at the referendum,

is evidence of the facts stated in the certificate and of the fact that that person became, not less than seven days before the polling day, entitled to vote at the referendum and remained so entitled up to the time at which the poll closed.

16. 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 and, in particular, making provision for or in relation to— Regulations.

- (a) the manner of voting at a referendum, including the furnishing of declarations with respect to entitlement to vote;
 - (b) the manner in which the entitlement of a corporation, or of personal representatives or trustees, to apply for enrolment or to vote at a referendum is to be exercised;
 - (c) the issue of ballot-papers, and the replacement of lost or destroyed ballot-papers;
 - (d) the scrutiny at a referendum;
 - (e) the time and manner of destruction of ballot-papers, and their preservation until that time;
 - (f) the forms to be used in connexion with a referendum; and
 - (g) the prohibition of false statements and improper conduct in connexion with a referendum, and the imposition of penalties, not exceeding a fine of One thousand dollars or imprisonment for three months, for contraventions of such a prohibition.
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