Dairy Industry Service Reform Act 2003

Act No. 32 of 2003 as amended

This compilation was prepared on 27 March 2006
taking into account amendments up to SLI 2006 No. 50

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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Contents

Part 1—Preliminary 1

1 Short title [*see* Note 1] 1
2 Commencement [*see* Note 1] 1
3 Schedule(s) 1
4 Crown to be bound 2
5 External Territories 2
6 Extraterritorial operation 2

Part 2—Provision of levy information to the Australian Dairy Corporation 3

7 Provision of levy information to the Australian Dairy Corporation 3

Part 3—Privatisation of dairy corporations 5

Division 1—Definitions 5

8 Definitions 5

Division 2—Registration of the Australian Dairy Corporation as a Corporations Act company 7

9 Application for registration 7
10 Funding contract before registration 7
11 Registration as a company under the Corporations Act 8
12 Operation of the Corporations Act after conversion time 8
13 Accounting records 8
14 Dairy Australia Limited not to be a Commonwealth authority etc. 9

Division 3—Transfer of assets and liabilities of the Dairy Research and Development Corporation 10

15 Transfer of assets and liabilities 10
16 Transfer of pending proceedings 10
17 Exemption from stamp duty etc. 10
18 References in certain instruments 11
19 Certificates in relation to assets 11

Division 4—Transferring employees of dairy corporations 13

Subdivision A—Preliminary 13

20 Transfer of staff 13
21 Terms and conditions of transferring employees 13
22 Variation of terms and conditions of employment 14

Subdivision B—Application of the Safety, Rehabilitation and Compensation Act 15

23 Expressions defined in SRC Act 15

24 Continued application of SRC Act 15
25 Commonwealth liability to meet certain SRC Act liabilities 15
26 SRC Act: rehabilitation provisions 15
27 Premiums under the SRC Act 16

Subdivision C—Maternity leave provisions 17
28 Maternity leave starting before conversion time 17
29 Maternity leave starting after conversion time 17

Subdivision D—Provisions relating to superannuation 18
30 Application of Superannuation Acts 18
31 Application of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* 18

Subdivision E—Provisions relating to long service leave 18
32 Expressions defined in Long Service Leave Act 18
33 Long service leave for employees with less than 10 years service 18
34 Payments in lieu of long service leave for employees with less than 10 years service 19
35 Payments on the death of an employee 20
36 Employee's long service leave credit for the purposes of sections 33 and 34 21
37 Employees with at least 10 years service 22
38 Division not to affect post-commencement long service leave rights 22

Division 5—Other provisions 23
39 Operation of Archives Act 23
40 Certificates etc. taken to be authentic etc 23

Part 4—Other provisions 24
41 Delegation 24
42 Compensation for acquisition of property 24
43 Regulations 25

Schedule 1—Amendments and repeals 26

Part 1—Amendment of Dairy Produce Act 1986 26
Dairy Produce Act 1986 26

Part 2—Amendment of other Acts 49
Administrative Decisions (Judicial Review) Act 1977 49
Equal Employment Opportunity (Commonwealth Authorities) Act 1987 49
Farm Household Support Act 1992 49
Primary Industries Levies and Charges Collection Act 1991 50

Safety, Rehabilitation and Compensation Act 1988 50
Part 3—Repeal of regulations 51
Dairy Research and Development Corporation Regulations 1990 51
Part 4—Transitional provisions 52
Notes 53

An Act relating to the dairy industry, and for related purposes

Part 1—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *Dairy Industry Service Reform Act 2003*.

2 Commencement [*see* Note 1]

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 43 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	15 April 2003
2. Schedule 1	A single day to be fixed by Proclamation	1 July 2003 (s 2(1), *Gazette* 2003, S228)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the

applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Crown to be bound

This Act binds the Crown in all its capacities.

5 External Territories

This Act extends to all the external Territories.

6 Extraterritorial operation

This Act applies both within and outside Australia.

Part 2—Provision of levy information to the Australian Dairy Corporation

7 Provision of levy information to the Australian Dairy Corporation

Provision of information

(1) The Australian Dairy Corporation may, by notice in writing, require a first purchaser who purchases relevant dairy produce from the producer of the produce to provide to the Corporation, within the time specified in the notice, the name, address, contact details and ABN of the producer.

(2) A first purchaser must comply with a notice under subsection (1).

Use or disclosure of information

(3) The Australian Dairy Corporation may use or disclose information about producers provided to it under this section for any of the following purposes:

(a) to inform the producers about the amendments to be made by this Act;

(b) to make the producers aware of their eligibility to become a member of Dairy Australia Limited;

(c) to invite the producers to make applications to the Corporation to become such a member;

(d) to develop a list of those producers eligible to become such a member.

Definitions

(4) In this section:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

first purchaser has the same meaning as in the *Primary Industries Levies and Charges Collection Act 1991*.

producer has the same meaning as in the *Primary Industries Levies and Charges Collection Act 1991*.

relevant dairy produce has the same meaning as in the *Primary Industries (Excise) Levies Act 1999*.

Part 3—Privatisation of dairy corporations

Division 1—Definitions

8 Definitions

In this Part, unless the contrary intention appears:

ADC means the Australian Dairy Corporation as in existence before the conversion time.

ASIC means the Australian Securities and Investments Commission.

asset means:

(a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and

(b) any right, power, privilege or immunity, whether actual, contingent or prospective.

combined service period, in relation to a transferring employee, means the total of:

(a) the period that is, immediately before the conversion time, the employee's period of service for the purposes of the Long Service Leave Act; and

(b) the period during which the employee continues to be an employee of Dairy Australia Limited.

commencing time means the beginning of the day on which this Act receives the Royal Assent.

conversion time means the time when Schedule 1 commences.

Dairy Australia Limited means ADC, after it is registered under the *Corporations Act 2001* as mentioned in section 11 of this Act.

DRDC means the Dairy Research and Development Corporation as in existence before the conversion time.

employee, in relation to DRDC, means a person who is an officer or employee of DRDC immediately before the conversion time.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

Long Service Leave Act means the *Long Service Leave (Commonwealth Employees) Act 1976*, as in force immediately before the conversion time.

Maternity Leave Act means the *Maternity Leave (Commonwealth Employees) Act 1973*, as in force immediately before the conversion time.

proposed director means a person specified as a director under paragraph 601BC(2)(f) of the *Corporations Act 2001* in relation to the application to ASIC to register ADC as a company limited by guarantee.

SRC Act means the *Safety, Rehabilitation and Compensation Act 1988*, as in force immediately before the conversion time.

transferring ADC employee means a person who is an officer or employee of ADC immediately before the conversion time.

transferring DRDC employee means a person who is taken to have been engaged as an employee of Dairy Australia Limited under section 20.

transferring employee means a transferring ADC employee or a transferring DRDC employee.

Division 2—Registration of the Australian Dairy Corporation as a Corporations Act company

9 Application for registration

Application

(1) As soon as practicable after the commencing time, ADC must apply to ASIC under Part 5B.1 of the *Corporations Act 2001* to register ADC as a company limited by guarantee.

(2) ADC is hereby authorised to make the application.

Directors

(3) The application must not specify a person as a director under paragraph 601BC(2)(f) of the *Corporations Act 2001* unless the Minister has first approved in writing the person being so specified.

Constitution

(4) The application must be accompanied by a copy of ADC's proposed constitution. The proposed constitution must first be approved in writing by the Minister.

10 Funding contract before registration

(1) During the period beginning at the commencing time and ending immediately before the conversion time:

(a) the Minister, on behalf of the Commonwealth; and

(b) at least 3 of the proposed directors, on behalf of Dairy Australia Limited;

may enter into a contract of a kind that could be entered into after the conversion time under section 5 of the *Dairy Produce Act 1986*.

(2) If such a contract is entered into, then, at the conversion time:

(a) the Commonwealth and Dairy Australia Limited are taken to have entered into the contract under section 5 of the *Dairy Produce Act 1986*; and

(b) Dairy Australia Limited becomes bound by the contract and entitled to its benefit.

Note: If such a contract is entered into, one of the effects of this section is that, after the conversion time, the Minister would be able to declare Dairy Australia Limited as the industry services body under section 7 of the *Dairy Produce Act 1986*.

11 Registration as a company under the Corporations Act

(1) At the conversion time, ASIC is taken to have registered ADC under section 601BD of the *Corporations Act 2001*:

(a) as a company limited by guarantee; and

(b) with the name "Dairy Australia Limited".

Note: The effect of registration of ADC under the *Corporations Act 2001* is not to create a new legal entity: see section 601BM of that Act.

(2) ASIC must issue a certificate and ACN under section 601BD of the *Corporations Act 2001* in respect of the registration. The date of registration is to be the day on which the conversion time occurred.

12 Operation of the Corporations Act after conversion time

Nothing in this Part prevents, after the conversion time:

(a) a change in the name of Dairy Australia Limited; or

(b) a change in the structure, constitution or membership of Dairy Australia Limited.

13 Accounting records

For the purposes of the *Corporations Act 2001*:

(a) the accounting records kept by ADC before the conversion time under section 20 of the *Commonwealth Authorities and Companies Act 1997* are to be treated as financial records of Dairy Australia Limited; and

(b) an annual report and financial statements prepared in relation to a financial year by ADC under section 9 of the *Commonwealth Authorities and Companies Act 1997* are to be treated as a financial report of Dairy Australia Limited for that financial year.

14 Dairy Australia Limited not to be a Commonwealth authority etc.

(1) After the conversion time, Dairy Australia Limited is not taken, for the purposes of a law, to be:

(a) a Commonwealth authority; or

(b) established for a public purpose or for a purpose of the Commonwealth; or

(c) a public authority or an agency or instrumentality of the Crown;

(within the ordinary meaning of the expression concerned) unless a law expressly provides otherwise.

(2) In this section:

law means:

(a) an Act of the Commonwealth or of a State or Territory; or

(b) regulations or any other instrument made under such an Act.

Division 3—Transfer of assets and liabilities of the Dairy Research and Development Corporation

15 Transfer of assets and liabilities

(1) This section applies to:
  (a) the assets of DRDC; and
  (b) the liabilities of DRDC.

(2) At the conversion time, the assets and liabilities cease to be assets and liabilities of DRDC and become assets and liabilities of Dairy Australia Limited without any conveyance, transfer or assignment.

(3) Immediately after the conversion time, Dairy Australia Limited becomes DRDC's successor in law in relation to the assets and liabilities.

Note: The effect of converting ADC into a Corporations Act company is not to create a new legal entity. The assets and liabilities of ADC immediately before the conversion time will remain assets and liabilities of Dairy Australia Limited immediately after that time.

16 Transfer of pending proceedings

If any proceedings to which DRDC was a party:
  (a) were pending in any court or tribunal immediately before the conversion time; and
  (b) related, in whole or in part, to an asset or liability of DRDC;

Dairy Australia Limited is, by force of this section, substituted for DRDC as a party to the proceedings to the extent to which the proceedings relate to the asset or liability.

17 Exemption from stamp duty etc.

(1) No stamp duty or other tax is payable under a law of a State or Territory in respect of an exempt matter, or anything connected with an exempt matter.

(2) The Minister may certify in writing:
  (a) that a specified matter is an exempt matter; or

(b) that a specified thing was done in connection with a specified exempt matter.

(3) In all courts, and for all purposes, a certificate under subsection (2) is evidence of the matter stated in the certificate.

(4) In this section:

exempt matter means:

(a) the transfer of an asset or a liability under section 15; or

(b) the operation of this Division in any other respect.

18 References in certain instruments

(1) This section applies to an instrument if:

(a) it is in operation immediately before the conversion time; and

(b) it is an instrument:

(i) to which DRDC is a party; or

(ii) which was given to, or in favour of, DRDC; or

(iii) in which a reference is made to DRDC; or

(iv) under which any right or liability accrues or may accrue to DRDC.

(2) The instrument continues to have effect after the conversion time as if a reference in the instrument to DRDC were a reference to Dairy Australia Limited.

(3) In this section:

instrument does not include regulations or any other instrument made under the *Superannuation Act 1976* or the *Superannuation Act 1990*.

19 Certificates in relation to assets

(1) This section applies if:

(a) an asset vests in Dairy Australia Limited under this Division; and

(b) there is lodged with an assets official a certificate that:

(i) is signed by the Minister; and

(ii) identifies the asset; and

(iii) states that the asset has become vested in Dairy Australia Limited under this Division.

(2) The assets official may:

(a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and

(b) make such entries in the register as are necessary having regard to the effect of this Division.

(3) In this section:

assets official means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

Division 4—Transferring employees of dairy corporations

Subdivision A—Preliminary

20 Transfer of staff

At the conversion time, each employee of DRDC ceases to be employed by DRDC and is taken to have been engaged as an employee of Dairy Australia Limited.

Note: The effect of converting ADC into a Corporations Act company is not to create a new legal entity. The employees of ADC immediately before the conversion time will remain employees of Dairy Australia Limited immediately after that time.

21 Terms and conditions of transferring employees

DRDC employees

(1) A transferring DRDC employee is taken:

(a) to have been engaged by Dairy Australia Limited on the same terms and conditions as those that applied to the person, immediately before the conversion time, as an employee of DRDC; and

(b) to have accrued an entitlement to benefits, in connection with that engagement by Dairy Australia Limited, that is equivalent to the entitlement that the person had accrued, as an employee of DRDC, immediately before the conversion time.

(2) The service of a transferring DRDC employee as an employee of Dairy Australia Limited is taken, for all purposes, to be continuous with his or her service as an employee of DRDC.

(3) Except as provided by this Division, a transferring DRDC employee is not entitled to receive any payment or other benefit merely because of the operation of this Division.

ADC employees

(4) Except as provided by this Division, a transferring ADC employee is not entitled to receive any payment or other benefit merely because of the operation of this Part.

Other

(5) This section:
  (a) has effect subject to this Division; and
  (b) is not to be taken to be a law of the Commonwealth for the purposes of paragraph 170XA(2)(b) of the *Workplace Relations Act 1996*, as in force immediately before the reform commencement within the meaning given by that Act.

22 Variation of terms and conditions of employment

(1) This Part does not prevent the terms and conditions of a transferring ADC employee's employment, or a transferring DRDC employee's employment, after the conversion time from being varied:
  (a) in accordance with those terms and conditions; or
  (b) by or under a law, award, determination or agreement.

(2) In this section:

award has the same meaning as in the *Workplace Relations Act 1996*.

law means:
  (a) a law of the Commonwealth or of a State or Territory; or
  (b) regulations or any other instrument (other than an award, determination or industrial agreement) made under such a law.

vary, in relation to terms and conditions, includes:
  (a) omitting any of those terms and conditions; or
  (b) adding to those terms and conditions; or
  (c) substituting new terms or conditions for any of those terms and conditions.

Subdivision B—Application of the Safety, Rehabilitation and Compensation Act

23 Expressions defined in SRC Act

Expressions that are defined in the SRC Act and used in this Subdivision have the same meanings as in that Act.

24 Continued application of SRC Act

The SRC Act continues to apply after the conversion time in relation to:

(a) injuries suffered before that time by a transferring employee; and

(b) loss of, or damage to, property incurred before that time by a transferring employee.

25 Commonwealth liability to meet certain SRC Act liabilities

After the conversion time, the Commonwealth:

(a) is liable to pay the liabilities of ADC under section 128A of the SRC Act; and

(b) subject to section 26 of this Act, is taken to have been the employer of the transferring ADC employees before the conversion time for the purposes of the application of the SRC Act in relation to those liabilities.

26 SRC Act: rehabilitation provisions

(1) If a transferring employee had, before the conversion time, suffered an injury resulting in an incapacity for work or an impairment, Dairy Australia Limited must, after that time, provide such reasonable co-operation and assistance as the Commonwealth requires to enable the Commonwealth to fulfil its obligations under sections 36, 37, 38, 39, 41 and 41A of the SRC Act in relation to the transferring employee.

(2) After the conversion time, Dairy Australia Limited is, for the purposes of section 40 of the SRC Act, taken to be the relevant employer of each transferring employee.

(3) After the conversion time, Dairy Australia Limited is, for the purposes of applying section 71 of the SRC Act in relation to each transferring employee, taken to be a Commonwealth authority.

27 Premiums under the SRC Act

(1) Comcare must, as soon as practicable after the conversion time, determine the amount (if any) by which the premium for ADC and DRDC for the transitional financial year should be reduced.

(2) If:

(a) an amount equal to the premium for ADC or DRDC for the transitional financial year has been paid under Division 4A of Part VII of the SRC Act; and

(b) the amount of the premium is reduced as a result of a determination under subsection (1);

the Secretary of the Department may, in writing, direct that an amount equal to the refund amount, or amounts that together add up to the refund amount, be paid to Dairy Australia Limited in accordance with the direction.

(3) A direction by the Secretary of the Department may be given subject to such conditions (if any) about the use or expenditure of the amount or amounts to which it relates as are set out in the direction.

(4) If the Secretary of the Department gives a direction, the amount or amounts to which it relates are payable to Dairy Australia Limited out of the Consolidated Revenue Fund, which is appropriated accordingly.

(5) The payment of an amount under subsection (4) must be made in accordance with the direction, and is subject to the conditions (if any) set out in the direction.

(6) A copy of each direction must be published in the *Gazette* within 14 days after the direction is given.

(7) The direction is not invalid merely because it has not been published as required under subsection (6).

(8) In this section:

refund amount means the amount equal to the difference between the amount of premium for ADC or DRDC for the transitional financial year and the amount of that premium as reduced because of a determination under subsection (1).

transitional financial year means the financial year in which the conversion time occurs.

Subdivision C—Maternity leave provisions

28 Maternity leave starting before conversion time

(1) This section applies in relation to a transferring employee if:

(a) immediately before the conversion time, the employee was a female employee of ADC or DRDC who was on leave granted under the Maternity Leave Act; and

(b) the employee would have been entitled to have remained on that leave after the conversion time if the employee had continued to be an employee of ADC or DRDC.

(2) After the conversion time, the Maternity Leave Act continues to apply to the employee in relation to the confinement in respect of which the leave was granted as if Dairy Australia Limited were a prescribed authority for the purposes of that Act.

29 Maternity leave starting after conversion time

(1) This section applies in relation to a transferring employee if:

(a) immediately before the conversion time, the person was a female employee of ADC or DRDC; and

(b) within 9 months after the conversion time, the employee would have been entitled to start leave granted under the Maternity Leave Act if the employee had continued to be an employee of ADC or DRDC.

(2) After the conversion time, the Maternity Leave Act continues to apply to the employee in relation to the confinement in respect of which she would have been entitled to leave as if Dairy Australia Limited were a prescribed authority for the purposes of that Act.

Subdivision D—Provisions relating to superannuation

30 Application of Superannuation Acts

Dairy Australia Limited is not an approved authority for the purposes of the *Superannuation Act 1976* or the *Superannuation Act 1990*.

31 Application of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*

(1) The Minister must not declare Dairy Australia Limited to be a relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

(2) In this section:

Minister has the same meaning as in the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

Subdivision E—Provisions relating to long service leave

32 Expressions defined in Long Service Leave Act

Expressions that are defined in the Long Service Leave Act and used in this Subdivision have the same meanings as in that Act.

33 Long service leave for employees with less than 10 years service

(1) This section applies in relation to a transferring employee whose period of service for the purposes of the Long Service Leave Act immediately before the conversion time was less than 10 years.

(2) This section does not apply in relation to an employee who dies.

(3) If the employee continues to be employed by Dairy Australia Limited until his or her combined service period is at least 10 years, Dairy Australia Limited may grant the employee long service leave on full salary for a period up to the employee's long service leave credit under subsection 36(1).

(4) If:

(a) the employee stops being an employee of Dairy Australia Limited on or after reaching the minimum retiring age, or because of retrenchment; and

(b) the employee's combined service period at the time when he or she stops being an employee of Dairy Australia Limited is at least one year;

Dairy Australia Limited may grant the employee long service leave on full salary for a period up to the employee's long service leave credit under subsection 36(1).

(5) If a period of long service leave may be granted to an employee under subsection (3) or (4), Dairy Australia Limited may, if the employee asks in writing, grant the employee long service leave on half salary for a period not longer than twice the first-mentioned period.

(6) Long service leave granted in the circumstances set out in subsection (4) must be taken so as to end immediately before the employee stops being an employee.

(7) For the purposes of this section, the rate of salary to be used in working out the full salary of an employee is the rate that would apply to the employee under section 20 of the Long Service Leave Act if:

(a) that section applied to the employee; and

(b) for the expression "section 16 or 17" in that section there were substituted the expression "section 33 of the *Dairy Industry Service Reform Act 2003*".

34 Payments in lieu of long service leave for employees with less than 10 years service

(1) This section applies to a transferring employee whose period of service for the purposes of the Long Service Leave Act immediately before the conversion time was less than 10 years.

(2) This section does not apply in relation to an employee who dies.

(3) If the employee stops being an employee of Dairy Australia Limited on or after the day on which his or her combined service period reaches 10 years, Dairy Australia Limited must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 36(2).

(4) If:

(a) the employee stops being an employee of Dairy Australia Limited, on or after reaching the minimum retiring age, or because of retrenchment; and

(b) at that time the employee's combined service period is at least one year;

Dairy Australia Limited must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 36(2).

(5) If:

(a) the employee stops being an employee of Dairy Australia Limited; and

(b) Dairy Australia Limited is satisfied that the employee left Dairy Australia Limited's employment because of ill-health that justified his or her so leaving; and

(c) when the employee left, his or her combined service period was at least one year;

Dairy Australia Limited must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subsection 36(2).

(6) For the purposes of this section, the rate of salary to be used in working out the full salary of an employee is the rate that would apply to the employee under section 21 of the Long Service Leave Act if:

(a) that section applied to the employee; and

(b) for the expression "sections 16 and 17" in that section there were substituted the expression "section 34 of the *Dairy Industry Service Reform Act 2003*".

35 Payments on the death of an employee

(1) This section applies to a transferring employee whose period of service for the purposes of the Long Service Leave Act immediately before the conversion time was less than 10 years.

(2) If the employee dies after the conversion time and immediately before his or her death:

(a) the employee was an employee of Dairy Australia Limited; and

(b) the employee's combined service period was at least one year; and

(c) the employee had one or more dependants;

Dairy Australia Limited must make a payment to the dependant or dependants.

(3) The total amount of the payment or payments is the amount that would have been payable to the person under section 34 if, on the day of his or her death, the person had instead stopped being an employee of Dairy Australia Limited on or after reaching the minimum retiring age.

(4) If subsection (2) applies, section 23 of the Long Service Leave Act has effect as if:

(a) that section applied to an employee of Dairy Australia Limited; and

(b) a reference in that section to the approving authority were a reference to Dairy Australia Limited; and

(c) for the expression "this Act" in that section there were substituted the expression "section 35 of the *Dairy Industry Service Reform Act 2003*"; and

(d) for the expression "subsection 16(7) or 17(5)" there were substituted the expression "section 35 of the *Dairy Industry Service Reform Act 2003*".

36 Employee's long service leave credit for the purposes of sections 33 and 34

(1) For the purposes of section 33, an employee's long service leave credit is equal to the long service leave credit that the employee would have under the Long Service Leave Act for the period:

(a) beginning when the employee began his or her period of service; and

(b) ending at the conversion time;

if the employee had been retrenched at the conversion time.

(2) For the purposes of section 34, an employee's long service leave credit is the employee's long service leave credit worked out under subsection (1) of this section reduced by any long service leave credit used under section 33.

37 Employees with at least 10 years service

(1) This section applies to a transferring employee whose period of service for the purposes of the Long Service Leave Act immediately before the conversion time was at least 10 years.

(2) Even though the employee ceases to be employed in Government Service for the purposes of the Long Service Leave Act, the employee's accrued rights under that Act continue. However, the employee is not entitled to receive any payment because he or she ceases to be in Government Service.

(3) The Long Service Leave Act has effect after the conversion time in relation to the employee's rights under that Act that accrued before the conversion time, as if Dairy Australia Limited were an approving authority for the purposes of that Act.

38 Division not to affect post-commencement long service leave rights

(1) This Division does not affect an employee's post-commencement long service leave rights.

(2) In this section:

award has the same meaning as in the *Workplace Relations Act 1996*.

law means:

(a) a law of the Commonwealth or of a State or Territory; or

(b) regulations or any other instrument (other than an award, determination or industrial agreement) made under such a law.

post-commencement long service leave rights means any long service leave rights the employee acquires after the conversion time under an award, determination, industrial agreement or law (other than this Act).

Division 5—Other provisions

39 Operation of Archives Act

(1) This Part does not authorise a Commonwealth record (within the meaning of the *Archives Act 1983*) to be transferred or otherwise dealt with except in accordance with the provisions of that Act.

(2) A Commonwealth record (within the meaning of the *Archives Act 1983*) must not be transferred to a person under this Part unless the National Archives of Australia has given permission under paragraph 24(2)(b) of that Act.

40 Certificates etc. taken to be authentic etc.

A document that appears to be a certificate or other document made or issued under this Part:

(a) is taken to be such a certificate or other document; and

(b) is taken to have been properly given;

unless the contrary is established.

Part 4—Other provisions

41 Delegation

(1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Act to:

(a) the Secretary of the Department; or

(b) an SES employee, or acting SES employee, in the Department.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

42 Compensation for acquisition of property

(1) If:

(a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and

(b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;

the Commonwealth is liable to pay the person a reasonable amount of compensation in respect of the acquisition.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

43 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising from:

(a) the amendments or repeals made by this Act; and

(b) the enactment of this Act.

Schedule 1—Amendments and repeals

Part 1—Amendment of Dairy Produce Act 1986

Dairy Produce Act 1986

1 Title

Omit "**the Australian Dairy Corporation,**".

2 Subsection 3(1) (definition of *acting Managing Director*)

Repeal the definition.

3 Subsection 3(1) (definition of *annual operational plan*)

Repeal the definition.

4 Subsection 3(1) (definition of *annual report*)

Repeal the definition.

5 Subsection 3(1) (definition of *appointed member*)

Repeal the definition.

6 Subsection 3(1) (definition of *Chairperson*)

Repeal the definition.

7 Subsection 3(1)

Insert:

> ***conversion time*** means the time when Schedule 1 to the *Dairy Industry Service Reform Act 2003* commences.

8 Subsection 3(1) (definition of *corporate plan*)

Repeal the definition.

9 Subsection 3(1) (definition of *Corporation*)

Repeal the definition.

10 Subsection 3(1) (definition of *Corporation levy*)

After "Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*", insert "(as in force before the conversion time)".

11 Subsection 3(1) (paragraph (c) of the definition of *dairy produce*)

Omit "Corporation", substitute "Minister".

12 Subsection 3(1)

Insert:

dairy service levy means dairy service levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

13 Subsection 3(1)

Insert:

dairy service payments means payments referred to in paragraph 5(1)(a).

14 Subsection 3(1) (definition of *Deputy Chairperson*)

Repeal the definition.

15 Subsection 3(1) (definition of *Domestic Fund*)

Repeal the definition.

16 Subsection 3(1)

Insert:

eligible body means a body that is registered under the *Corporations Act 2001* as a company limited by guarantee.

17 Subsection 3(1) (definition of *equal employment opportunity program*)

Repeal the definition.

18 Subsection 3(1) (definition of *executive*)

Repeal the definition.

19 Subsection 3(1)

Insert:

funding contract means a contract under section 5.

20 Subsection 3(1) (definition of *futures contract*)

Repeal the definition.

21 Subsection 3(1) (definition of *futures market*)

Repeal the definition.

22 Subsection 3(1) (definition of *Industry Fund*)

Repeal the definition.

23 Subsection 3(1)

Insert:

industry services body means the body declared as the industry services body under section 7.

24 Subsection 3(1) (definition of *Managing Director*)

Repeal the definition.

25 Subsection 3(1) (definition of *Market Support Fund*)

Repeal the definition.

26 Subsection 3(1) (definition of *market support payment*)

Repeal the definition.

27 Subsection 3(1)

Insert:

matching payments means payments referred to in paragraph 5(1)(b).

28 Subsection 3(1) (definition of *member*)

Repeal the definition.

29 Subsection 3(1) (definition of *money of the Corporation*)

Repeal the definition.

30 Subsection 3(1)

Insert:

new dairy levy amounts means:

(a) amounts of dairy service levy received by the Commonwealth after the conversion time; and

(b) amounts received by the Commonwealth after the conversion time under section 7 of the Levies and Charges Collection Act in relation to dairy service levy; and

(c) amounts payable by way of penalty under section 15 of the Levies and Charges Collection Act in relation to dairy service levy that are received by the Commonwealth after the conversion time.

31 Subsection 3(1) (definition of *old corporation levy*)

Repeal the definition.

32 Subsection 3(1)

Insert:

old dairy levy amounts means:

(a) amounts of Corporation levy, promotion levy or research levy received by the Commonwealth after the conversion time; and

(b) amounts received by the Commonwealth after the conversion time under section 7 of the Levies and Charges Collection Act in relation to Corporation levy, promotion levy or research levy; and

(c) amounts of Corporation levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 71 of this Act before the conversion time; and

(d) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to Corporation levy, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 71 of this Act before the conversion time; and

(e) amounts of promotion levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the

Consolidated Revenue Fund under section 90 of this Act before the conversion time; and

(f) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to promotion levy, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 90 of this Act before the conversion time; and

(g) amounts of research levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 30 of the *Primary Industries and Energy Research and Development Act 1989* before the conversion time; and

(h) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to research levy, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 30 of the *Primary Industries and Energy Research and Development Act 1989* before the conversion time; and

(i) amounts payable to the Dairy Research and Development Corporation under paragraph 30(1)(b) of the *Primary Industries and Energy Research and Development Act 1989* before the conversion time, but not paid out of the Consolidated Revenue Fund under that Act before the conversion time.

33 Subsection 3(1) (definition of *old dairy products levy*)

Repeal the definition.

34 Subsection 3(1) (definition of *old market support levy*)

Repeal the definition.

35 Subsection 3(1) (definition of *old promotion levy*)

Repeal the definition.

36 Subsection 3(1) (definition of *old research levy*)

Repeal the definition.

37 Subsection 3(1) (definition of *Promotion Fund*)

Repeal the definition.

38 Subsection 3(1) (definition of *promotion levy*)

After "Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*", insert "(as in force before the conversion time)".

39 Subsection 3(1) (definition of *R&D Corporation*)

Repeal the definition.

40 Subsection 3(1) (definition of *R&D Fund*)

Repeal the definition.

41 Subsection 3(1) (definition of *relevant fund*)

Repeal the definition.

42 Subsection 3(1)

Insert:

> ***research levy*** means research levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* (as in force before the conversion time), and includes amounts of penalty (if any) payable under the Levies and Charges Collection Act in relation to that levy.

43 Subsection 3(1) (definition of *RIR&D Corporation*)

Repeal the definition.

44 Subsection 3(1) (definition of *Selection Committee*)

Repeal the definition.

45 Subsection 3(1) (definition of *WTO Agreement*)

Repeal the definition.

46 Subsection 3(1) (definition of *WTO Agreement day*)

Repeal the definition.

47 Subsection 3(1) (definition of *WTO Agreement year*)

Repeal the definition.

48 Subsection 3(1A)

Repeal the subsection.

49 Subsection 3(1B)

Repeal the subsection.

50 Section 3 (note)

Repeal the note.

51 Parts II to IV

Repeal the Parts, substitute:

Part II—Provision of services to the dairy industry

Division 1—Funding contract

5 Funding contract

(1) The Minister may, on behalf of the Commonwealth, enter into a contract with an eligible body that provides for the Commonwealth to make payments of the following kinds to the body:

(a) payments referred to as ***dairy service payments***;

(b) payments made in respect of particular financial years, referred to as ***matching payments***.

Note: After a contract has been entered into, the eligible body can be declared as the industry services body under section 7.

(2) Before entering into the contract, the Minister must be satisfied that the terms of the contract make adequate provision to ensure that:

(a) dairy service payments are spent by the body on marketing, promotion, strategic policy development, research and development activities or other activities, for the benefit of the Australian dairy industry; and

(b) matching payments are spent by the body on research and development activities for the benefit of the Australian dairy industry and the Australian community generally.

(3) The contract does not have to oblige the Commonwealth to pay the full amounts that could be paid out of the money appropriated under section 6.

Note: For example, the contract may provide for payments less than the limits specified in section 6 to take account of the costs of collecting new dairy levy amounts or old dairy levy amounts and to take account of refunds and payments made in error.

(4) The contract may include provisions relating to assets and liabilities that are transferred to the body under the *Dairy Industry Service Reform Act 2003*. This subsection does not impliedly limit the matters that may be included in the contract.

(5) This section does not impliedly limit the executive power of the Commonwealth to enter into agreements.

(6) The Minister must cause a copy of the contract to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the contract was entered into.

(7) If the contract is varied, the Minister must cause a copy of the contract as varied to be tabled in each House of the Parliament within 14 sitting days of that House after the variation occurred.

6 Appropriation for payments under funding contract

(1) The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under section 5.

Overall limit for dairy service payments

(2) For dairy service payments, the total limit on the appropriation is the sum of:

(a) the total amount of new dairy levy amounts; and

(b) the total amount of old dairy levy amounts.

Overall limit for matching payments

(3) For matching payments, the total limit on the appropriation is the sum of:

(a) the total amount of new dairy levy amounts; and

(b) the total amount of old dairy levy amounts.

Matching payments—annual limit

(4) For matching payments in respect of a particular financial year, the limit on the appropriation is the lesser of:

(a) 0.5% of the amount determined by the Minister to be the gross value of whole milk produced in Australia in that financial year; and

(b) 50% of the amount spent by the eligible body in that financial year on activities that qualify, under the funding contract, as research and development activities.

(5) For the purposes of subsection (4), the regulations may prescribe the manner in which the Minister is to determine the gross value of whole milk produced in Australia in a financial year.

Matching payments—unmatched R&D excess

(6) If there is an unmatched R&D excess for a financial year, the amount spent by the eligible body in the following financial year on activities that qualify, under the funding contract, as research and development activities is taken, for the purposes of this section (including for the purposes of this subsection and subsection (7)), to be increased by the amount of the unmatched R&D excess.

Note: This means that research and development expenditure that is not "50% matched" in one financial year because of the cap in paragraph (4)(a) can be carried forward into later years.

(7) For the purposes of subsection (6), there is an ***unmatched R&D excess*** for a financial year if:

(a) the eligible body spends a particular amount (the ***R&D spend amount***) in the financial year on activities that qualify, under the funding contract, as research and development activities; and

(b) because of the operation of paragraph (4)(a), the matching payments for the financial year are less than 50% of the R&D spend amount;

and the amount of the unmatched R&D excess is:

$$\text{R\&D spend amount in the financial year} - \left(2 \times \text{The amount of the matching payments for the financial year} \right)$$

Division 2—Industry services body

7 Declaration of industry services body

(1) The Minister may, in writing, declare an eligible body to be the industry services body if:

(a) the Commonwealth and the eligible body have entered into a funding contract; and

(b) the Minister is satisfied that, if the body is so declared, it will comply with its obligations under the funding contract and this Act.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

Declaration takes effect immediately

(2) A declaration under this section takes effect immediately after it is made.

Tabling in Parliament

(3) The Minister must cause a copy of a declaration under this section to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the declaration is made.

8 Use of levy information provided to the industry services body

The industry services body may use information provided to it under subsection 27(3A) of the Levies and Charges Collection Act for any of the following purposes:

(a) to determine whether a person is or remains eligible to be a member of the industry services body;

(b) to maintain a register of members of the industry services body;

(c) to maintain a register of those persons eligible to vote in a poll mentioned in section 9;

(d) to make public any information of a statistical nature;

(e) in performing any of its functions under this Act or the funding contract.

Note: Subsection 27(3A) of the Levies and Charges Collection Act allows an authorised person under that Act to provide certain levy information to the industry services body.

Division 3—Recommendations about amount of dairy service levy

9 Recommendations about amount of dairy service levy

Recommendations

(1) The industry services body must make recommendations to the Minister in relation to the amount of the dairy service levy. The recommendations must be made by the times prescribed by the regulations.

Poll

(2) Before making each recommendation, the industry services body must conduct a poll in accordance with the regulations. The recommendation must be in accordance with the results of the poll.

Method of conducting poll

(3) Regulations for the conduct of a poll must include provisions allocating votes to each dairy service levy payer.

Division 4—Other provisions

10 Delegation

(1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Part to:

(a) the Secretary of the Department; or

(b) an SES employee, or acting SES employee, in the Department.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

11 Declarations etc. taken to be authentic etc.

A document that appears to be a declaration or other document made or issued under this Part:

(a) is taken to be such a declaration or other document; and

(b) is taken to have been properly given;

unless the contrary is established.

12 Publication of declarations

(1) A copy of each declaration made by the Minister under this Part must be published in the *Gazette* not later than the 14th day after the day on which the declaration is made.

(2) Failure to comply with this section does not affect the validity of a declaration.

13 Tabling of financial reports

(1) The industry services body must, within 14 days of lodging a financial report (the ***annual report***) mentioned in section 292 of the *Corporations Act 2001*, give the Minister a copy of the report.

(2) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the copy of the report was given to the Minister.

(3) In addition to the matters mentioned in section 295 of the *Corporations Act 2001*, the annual report must include details of the following in relation to the financial year to which the report relates:

(a) the amount of dairy service payments and matching payments made to the industry services body;

(b) the amount of those payments that were spent;

(c) outcomes as measured against objectives that apply in relation to the industry services body.

14 Other reports

(1) The Minister must, as soon as practicable after the holding of each annual general meeting of the industry services body, cause to be tabled in each House of the Parliament a report in relation to the year ending on 30 June before the holding of that meeting.

(2) The report must include the following in relation to that year:

(a) a statement as to the amount of dairy service levy received by the Commonwealth;

(b) a statement as to whether the Minister is satisfied, on the basis of information provided by the industry services body,

that the spending of dairy service payments and matching payments complies with the funding contract;

(c) if the Minister is not so satisfied—details of why the Minister is satisfied that the spending does not so comply.

52 Sections 51 to 59

Repeal the sections, substitute:

51 Definitions

In this Part:

export means export from Australia.

market means a place.

regulated dairy market, in relation to regulated dairy produce, means a market that is declared to be a regulated dairy market in relation to the produce under section 52.

regulated dairy produce means dairy produce that is declared to be regulated dairy produce under section 52.

52 Regulated dairy produce and regulated dairy markets

The regulations may declare that, on and after a specified day:

(a) specified dairy produce is regulated dairy produce; and

(b) a specified market is a regulated dairy market in respect of that produce.

53 Prohibitions on certain exports of regulated dairy produce to regulated dairy markets

Export where no approval to do so

(1) A person is guilty of an offence if:

(a) the person exports regulated dairy produce to a regulated dairy market in respect of that produce; and

(b) the person does not hold an approval issued in accordance with section 54 in relation to that export.

Penalty: 180 penalty units.

Export in contravention of conditions of approval

(2) A person is guilty of an offence if:

(a) the person exports regulated dairy produce to a regulated dairy market in respect of that produce; and

(b) the person holds an approval issued in accordance with section 54 in relation to that export but the export is not in accordance with the conditions of that approval.

Penalty: 60 penalty units.

54 Approvals to export regulated dairy produce to regulated dairy markets

(1) The regulations may make provision for and in relation to the granting of approvals to persons to export regulated dairy produce to regulated dairy markets.

(2) Regulations made for the purposes of subsection (1) may make provision for and in relation to any one or more of the following:

(a) the making of an application for an approval;

(b) the payment of fees to the Commonwealth in respect of such an application;

(c) the waiver or remission of such fees;

(d) the grant of an approval;

(e) the grant of an approval subject to compliance with conditions by the holder of the approval (which may include, but are not limited to, conditions relating to matters occurring either before or after the export of the dairy produce);

(f) whether an approval is in force in relation to exports during a specified period or is in force in relation to a particular export only;

(g) the variation of an approval or of a condition of an approval;

(h) the revocation or suspension of an approval;

(i) the review of decisions made under the regulations.

(3) Regulations made for the purposes of subsection (1) may make different provision in respect of matters arising in relation to different regulated dairy produce and different regulated dairy markets.

(4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

53 Section 60

Omit "Neither this Part nor a direction under this Part affects", substitute "This Part does not affect".

54 Part VII

Repeal the Part.

55 Subsections 109(1) and (2)

Repeal the subsections, substitute:

(1) For the purposes of this section, for so long as the industry services body is in a position to control the operations of Asia Dairy Industries (H.K.) Limited, a company incorporated in Hong Kong, that company is taken to be the subsidiary company.

(2) If:

(a) the subsidiary company is wound-up; and

(b) the liabilities of the subsidiary company payable on the winding-up are not able to be met in full from the assets of the subsidiary company;

the industry services body is liable to meet those liabilities, to the extent that they are not able to be met out of the assets of the subsidiary company, as if the liabilities had been incurred by the industry services body.

Note: The heading to section 109 is replaced by the heading "**Liability of industry services body for the subsidiary company**".

56 Section 109A

Repeal the section.

57 Section 109B

Repeal the section.

58 Section 109C

Repeal the section.

59 Section 110

Repeal the section.

60 Section 114

Repeal the section.

61 Section 115

Repeal the section.

62 Section 117

Repeal the section.

63 Section 118

Repeal the section.

64 Subsection 119(1)

Omit "a member of the Corporation or of the staff assisting the Corporation", substitute "an officer or an employee of the industry services body".

65 Paragraph 119(2)(a)

Omit "as a member of the Corporation or as a member of the staff assisting the Corporation", substitute "or employment with the industry services body and acquired under or for the purposes of this Act".

66 Paragraph 119(2)(b)

Repeal the paragraph, substitute:

(b) produce to any person:

(i) an application or other document given to the Australian Dairy Corporation by a manufacturer of dairy produce for the purpose of obtaining a market support payment under this Act as in force before the conversion time; or

(ii) an application or other document given to that Corporation by a person for the purposes of section 99 of this Act as in force before the conversion time; or

(iii) a return furnished to that Corporation by an exporter of dairy produce pursuant to section 110 of this Act as in force before the conversion time.

67 Subsection 119(2A)

Omit "clause 42", substitute "clause 43".

68 Subsection 119(4)

Omit "Corporation", substitute "industry services body".

69 Sections 121 to 125

Repeal the sections.

70 Paragraph 126(c)

Repeal the paragraph.

71 Schedule 1

Repeal the Schedule.

72 Clause 2 of Schedule 2 (paragraphs (b) and (c) of the definition of *deliver*)

Repeal the paragraphs, substitute:

(b) in relation to manufacturing milk covered by paragraph (a) of the definition of ***manufacturing milk*** in this clause—deliver as mentioned in that paragraph; and

(c) in relation to manufacturing milk covered by paragraph (b) of the definition of ***manufacturing milk*** in this clause—use as mentioned in that paragraph.

73 Clause 2 of Schedule 2 (definition of *manufacturing milk*)

Repeal the definition, substitute:

manufacturing milk means:

(a) relevant dairy produce delivered by the producer to a manufacturer during a month ending before 1 July 2000, in respect of which a domestic market support payment has been paid under section 108A of this Act as in force before the conversion time; or

(b) relevant dairy produce produced by a manufacturer and used by the manufacturer, during a month ending before 1 July 2000, in the manufacture of dairy produce, in respect of which a domestic market support payment has been paid under section 108A of this Act as in force before the conversion time;

other than market milk.

74 Paragraph 10(d) of Schedule 2

Omit "by the Corporation", substitute "out of the Dairy Structural Adjustment Fund".

75 Subclause 23(4) of Schedule 2

Omit "by the Corporation".

76 Subclause 23(5) of Schedule 2

Omit "by the Corporation".

77 Paragraph 37B(d) of Schedule 2

Omit "by the Corporation", substitute "out of the Dairy Structural Adjustment Fund".

78 Paragraph 43(3)(a) of Schedule 2

After "SDA scheme", insert "or is otherwise required by any law of the Commonwealth".

79 Clause 45 of Schedule 2

Omit "Corporation", substitute "industry services body".

Note: The heading to clause 45 is altered by omitting "**Corporation**" and substituting "**industry services body**".

80 Subclause 46(1) of Schedule 2

Omit "Corporation", substitute "industry services body".

81 Subclause 48(1) of Schedule 2

Omit "the Corporation to collect money", substitute "for the collection of money".

Note: The heading to clause 48 is altered by omitting "**Corporation**" and substituting "**Industry services body**".

82 Subclause 48(2) of Schedule 2

Omit "Corporation", substitute "industry services body".

83 Subclause 48(3) of Schedule 2

Omit "Corporation", substitute "industry services body".

84 Subclause 48(6) of Schedule 2

Omit "Corporation", substitute "industry services body".

85 Subclause 49(6) of Schedule 2

Omit "Corporation", substitute "industry services body".

86 Subclause 70(1) of Schedule 2

Omit "Corporation", substitute "industry services body".

Note: The heading to clause 70 is altered by omitting "**Corporation**" and substituting "**Industry services body**".

87 Subclause 70(2) of Schedule 2

Omit "Corporation" (first occurring), substitute "industry services body".

88 Subclause 70(2) of Schedule 2

Omit "Corporation or of the Managing Director", substitute "industry services body".

89 Subclause 70(3) of Schedule 2

Omit "Corporation", substitute "industry services body".

90 Paragraph 72(1)(b) of Schedule 2

Omit "Corporation", substitute "industry services body".

91 Subclause 72(7) of Schedule 2

Repeal the subclause, substitute:

(7) A reference in this clause to a ***senior employee of the industry services body*** is a reference to a person who:

(a) is an employee of the industry services body; and

(b) holds or performs the duties of a position of General Manager.

92 Subclauses 77(2) and (3) of Schedule 2

Repeal the subclauses.

93 After clause 77 of Schedule 2

Insert:

77A The industry services body to keep the Dairy Structural Adjustment Fund

(1) The industry services body must keep and administer the Dairy Structural Adjustment Fund.

(2) The assets of the Dairy Structural Adjustment Fund are the property of the industry services body, but must be kept separate from all other property and must be held on trust by the body for the purposes of this Part.

(3) No stamp duty or other tax is payable under a law of a State or Territory in respect of the operation of subclause (2).

77B What the Dairy Structural Adjustment Fund consists of

The Dairy Structural Adjustment Fund consists of the following:

(a) money credited to the Fund under clause 78;

(b) investments the industry services body has as a result of investing money in the Fund under clause 79B;

(c) all other money and property lawfully paid into, or forming part of, the Fund.

77C Power to borrow for the purposes of the Dairy Structural Adjustment Fund

(1) The industry services body may borrow money for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended.

(2) The industry services body may give security, including over the assets of the Dairy Structural Adjustment Fund, in respect of the body's obligations in relation to a borrowing under subclause (1).

77D Funding contract may include provisions relating to the Dairy Structural Adjustment Fund

A funding contract with the industry services body may include provisions relating to the Dairy Structural Adjustment Fund. This clause does not impliedly limit the matters that may be included in the contract.

94 Paragraphs 78(a), (b), (c), (d), (e), (f) and (fa) of Schedule 2

Omit "Corporation", substitute "industry services body".

95 Paragraph 78(g) of Schedule 2

Omit "Corporation as interest", substitute "industry services body as interest or profits".

96 Paragraph 78(h) of Schedule 2

Omit "Corporation under section 75", substitute "industry services body".

97 Paragraph 78(i) of Schedule 2

Omit "Corporation", substitute "industry services body".

98 Paragraph 79(c) of Schedule 2

Omit "Corporation", substitute "industry services body".

99 Paragraph 79(d) of Schedule 2

Repeal the paragraph.

100 Paragraph 79(g) of Schedule 2

Omit "Corporation", substitute "industry services body".

101 Paragraph 79(k) of Schedule 2

Repeal the paragraph.

102 Paragraph 79(l) of Schedule 2

Omit "Corporation", substitute "industry services body".

103 Paragraph 79(m) of Schedule 2

Omit "by the Corporation".

104 Paragraph 79(n) of Schedule 2

Omit "Corporation", substitute "industry services body".

105 After clause 79 of Schedule 2

Insert:

79A How money is to be kept

(1) Money in the Dairy Structural Adjustment Fund must:

(a) until applied for the purposes of this Part; or

(b) until invested under clause 79B;

be kept by the industry services body in an account or accounts with an Australian ADI separate from any account or accounts in which other money is kept.

(2) In this clause:

Australian ADI means:

(a) an ADI (authorised deposit-taking institution) within the meaning of the *Banking Act 1959*; or

(b) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Constitution.

79B Money in Dairy Structural Adjustment Fund may be invested

Money in the Dairy Structural Adjustment Fund that is not immediately required for the purposes of this Part may be invested in any way in which trustees are for the time being authorised by a law in force in a State or Territory to invest trust funds.

79C Report to Minister

(1) The industry services body must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the administration of the Dairy Structural Adjustment Fund during the year that ended on that 30 June.

(2) The Minister must cause a copy of each report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

106 Clause 80 of Schedule 2

Omit "Corporation", substitute "industry services body".

107 Clauses 81 and 82 of Schedule 2

Repeal the clauses.

108 Subclause 83(1) of Schedule 2

Omit "Corporation", substitute "industry services body".

Note: The heading to clause 83 is altered by omitting "**Corporation**" and substituting "**industry services body**".

109 Subclause 83(2) of Schedule 2

Omit "Corporation", substitute "industry services body".

110 Subclause 84(1) of Schedule 2

Omit "Corporation", substitute "industry services body".

Note: The heading to clause 84 is altered by omitting "**Corporation**" and substituting "**industry services body**".

111 Subclause 85(1) of Schedule 2

Omit "Corporation", substitute "industry services body".

Note: The heading to clause 85 is altered by omitting "**Corporation**" and substituting "**industry services body**".

112 Paragraph 94(2)(c) of Schedule 2

Omit "by the Corporation".

113 Paragraph 94(2)(d) of Schedule 2

Omit "Corporation", substitute "industry services body".

Part 2—Amendment of other Acts

Administrative Decisions (Judicial Review) Act 1977

114 Paragraph (k) of Schedule 2

Omit "Australian Dairy Corporation".

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

115 Subsection 3(1) (definition of *authority*)

Omit all the words after "but does not include", substitute "a relevant employer as defined in section 3 of the *Equal Opportunity for Women in the Workplace Act 1999*.".

Farm Household Support Act 1992

116 Subsection 3(2)

Insert:

> ***industry services body*** has the same meaning as in the *Dairy Produce Act 1986*.

117 Paragraph 52A(5A)(b)

Omit "Australian Dairy Corporation", substitute "industry services body".

118 Paragraph 52C(5)(b)

Omit "Australian Dairy Corporation", substitute "industry services body".

119 Subsection 56(2A)

Omit "Australian Dairy Corporation" (wherever occurring), substitute "industry services body".

120 Subsection 56(3)

Omit "Australian Dairy Corporation" (wherever occurring), substitute "industry services body".

Primary Industries Levies and Charges Collection Act 1991

121 After subsection 27(3)

Insert:

(3A) An authorised person may provide the following information to the industry services body:

(a) the name, address, contact details and ABN of any person who has paid, or is liable to pay, dairy levy;

(b) details relating to the amount of dairy levy that the person has paid, or is liable to pay.

122 Subsection 27(4)

Insert:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

123 Subsection 27(4)

Insert:

dairy levy means levy that:

(a) is or has been collected under this Act; and

(b) is prescribed by regulations under this Act.

124 Subsection 27(4)

Insert:

industry services body has the same meaning as in the *Dairy Produce Act 1986*.

Safety, Rehabilitation and Compensation Act 1988

125 Subsection 128A(4) (paragraph (e) of the definition of *prescribed Commonwealth authority*)

Repeal the paragraph.

Part 3—Repeal of regulations

Dairy Research and Development Corporation Regulations 1990

126 The whole of the regulations

Repeal the regulations.

Part 4—Transitional provisions

127 Dairy produce

A product that is dairy produce, immediately before the commencement of this item, under paragraph (c) of the definition of ***dairy produce*** in subsection 3(1) of the *Dairy Produce Act 1986* is taken, after the commencement of this item, to continue to be dairy produce under that paragraph.

128 Continuation of secrecy obligations

Section 119 of the *Dairy Produce Act 1986* as in force before the commencement of this item continues to apply after the commencement of this item to a person who, immediately before the commencement of this item, was a person to whom that section applied as if the amendments to that section made by this Schedule had not been made.

129 Final annual reports

(1) For the final reporting period, the directors of Dairy Australia Limited must, in relation to the Australian Dairy Corporation and the Dairy Research and Development Corporation, prepare the report referred to in section 9 of the *Commonwealth Authorities and Companies Act 1997*. The report may include such other matters as the directors consider appropriate.

(2) For the purposes of this item, the final reporting period is to be treated as a financial year.

(3) In this item:

final reporting period means the period that:

(a) started on 1 July 2002; and

(b) ends at the commencement of this item.

Notes to the *Dairy Industry Service Reform Act 2003*

Note 1

The *Dairy Industry Service Reform Act 2003* as shown in this compilation comprises Act No. 32, 2003 amended as indicated in the Tables below.

The *Dairy Industry Service Reform Act 2003* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Dairy Industry Service Reform Act 2003	32, 2003	15 Apr 2003	Schedule 1: 1 July 2003 (*see Gazette* 2003, S228) Remainder: Royal Assent	

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 21	am. SLI 2006 No. 50