

DAIRY INDUSTRY STABILIZATION LEVY ACT 1977

No. 52 of 1977

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

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Dairy Industry Stabilization Levy Act* 1977.¹ Short title.

2. This Act shall come into operation on 1 July 1977.

Commence-
ment.

3. The *Dairy Industry Stabilization Act* 1977 shall be read as one with this Act.

Dairy
Industry
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with this Act.

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

Interpret-
ation.

“Advisory Committee” means the Australian Dairy Industry Advisory Committee constituted under the *Dairy Produce Act* 1924;

“authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment made by the Minister under section 10;

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

“buttermilk” means buttermilk derived from milk;

“buttermilk powder” means powder produced by the removal of water from buttermilk;

“butteroil” includes ghee produced from cream derived from milk, but does not include butteroil made, directly or indirectly, from butter;

“casein” means casein produced from—

(a) skimmilk;

(b) buttermilk; or

(c) skimmilk and buttermilk,

and includes caseinates and co-precipitates of casein and of any other milk protein;

“caseinate” means the product made by combining casein or casein curd with neutralizing agents and removing any water;

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

“co-precipitate”, in relation to casein or any other milk protein, means the product precipitated from casein or another milk protein, as the case may be, by means of an appropriate heat treatment and the addition of—

- (a) acid;
- (b) alkaline earths; or
- (c) a combination of acid and alkaline earths,

whether with or without the addition of neutralizing agents, being a product that contains casein or other milk protein and from which any water has been removed;

“Corporation” means the Australian Dairy Corporation constituted under the *Dairy Produce Act 1924*;

“cream” means that one of the two products obtained from milk by a process of skimming or mechanical separation that contains the higher fat content;

“dairy products” means—

- (a) butter, butteroil, casein, skimmilk powder, buttermilk powder or whole milk powder;
- (b) cheese, other than cheese of a variety that is exempt from levy by virtue of regulations in force under section 5; or
- (c) such other products, being products produced from milk or a constituent part of milk, as are prescribed from time to time;

“levy” means an amount of levy imposed by this Act;

“milk” means cows’ milk that is whole milk or standardized milk;

“skimmilk” means skimmilk derived from milk;

“skimmilk powder” means powder produced by the removal of water from skimmilk, or from a mixture of skimmilk and another substance or other substances, being powder containing not more than 1.5% of fat and not more than 5% of moisture;

“standardized milk” is milk that has had the concentration of fat, protein or other solids adjusted;

“whole milk powder” means powder produced by the removal of water from milk, being powder containing not less than 26% of fat and not more than 5% of moisture.

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

5. The regulations may exempt from levy any prescribed variety of cheese.

Regulations may exempt prescribed varieties of cheese.

6. (1) Subject to this Act, levy is imposed on dairy products produced at a factory on or after the relevant date in relation to the kind of dairy products in which those dairy products are included.

Imposition of levy.

(2) In sub-section (1), "relevant date", in relation to a kind of dairy products, means such date as is prescribed with respect to that kind of dairy products.

(3) Where a person by whom the levy imposed on any dairy products is payable or has been paid satisfies an authorized person that the dairy products—

- (a) have been destroyed while owned by him;
- (b) while owned by him, have been damaged, or have deteriorated, to such an extent that they have become unsaleable, whether as dairy products or otherwise; or
- (c) have been exported from Australia, whether by him or by another person,

the authorized person shall issue a certificate accordingly and, thereupon, sub-section (1) shall be deemed not to have applied in respect of those dairy products and, if that levy or a part of that levy has been paid, the amount so paid shall be refunded.

(4) Where dairy products to which a certificate issued under sub-section (3) relates, being dairy products that have been exported from Australia, are imported into Australia, levy is imposed on those dairy products.

(5) Where a person by whom the levy imposed on any dairy products is payable or has been paid sells those dairy products to the Corporation, sub-section (1) or (4), whichever is applicable, shall be deemed not to have applied in respect of those dairy products and, if that levy or a part of that levy has been paid, the amount so paid shall be refunded.

(6) Subject to sub-section (7), where the Corporation sells dairy products referred to in sub-section (5), levy is imposed on those dairy products.

(7) Sub-section (6) does not apply in relation to dairy products that—

- (a) have been sold in Australia by or on behalf of the Corporation for delivery to a place outside Australia or for delivery to a ship or aircraft for export from Australia; or
- (b) having been exported from Australia for the purpose of sale outside Australia, have been sold by or on behalf of the Corporation at a place outside Australia.

- Rate of levy.** **7.** (1) The regulations may fix a rate of levy, from time to time, in respect of dairy products of a prescribed kind.
- (2) A rate of levy fixed under sub-section (1) applies in relation to dairy products of the relevant kind produced during the period that the rate is in force.
- By whom levy payable.** **8.** (1) Subject to this section, levy in respect of any dairy products is payable by the person who is, at the time of their production, the proprietor of the factory at which they are produced.
- (2) Where, by virtue of sub-section 6 (4), levy is re-imposed in respect of any dairy products imported into Australia, that levy is payable by the importer of those products.
- (3) Where, by virtue of sub-section 6 (6), levy is re-imposed in respect of any dairy products sold by the Corporation, that levy is payable by the Corporation.
- Exemptions from levy.** **9.** (1) The regulations may—
- (a) prescribe a period as the prescribed period; and
- (b) prescribe a quantity as the minimum quantity for that period,
- with respect to dairy products of a prescribed kind.
- (2) Where—
- (a) a period, and a quantity for that period, have been prescribed under sub-section (1) with respect to dairy products of a prescribed kind; and
- (b) during that period, the quantity of dairy products of that kind produced at a factory (excluding dairy products of that kind that are exempt from levy by virtue of regulations in force under sub-section (3)) does not exceed that quantity,
- those dairy products are exempt from levy.
- (3) The regulations may exempt from levy dairy products of a prescribed class.
- Appointment of authorized persons.** **10.** The Minister may, by writing signed by him, appoint a person, or persons included in a class of persons, to be an authorized person or authorized persons, as the case may be, for the purposes of this Act.
- Regulations.** **11.** (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Corporation, after consultation with the Advisory Committee, may make recommendations to the Minister with respect to regulations to be made for the purposes of—

(a) paragraph (c) of the definition of “dairy products” in sub-section 4 (1); or

(b) section 5, 6, 7 or 9.

(3) Before making regulations for the purposes of a provision referred to in sub-section (2), the Governor-General shall take into consideration any relevant recommendation made by the Corporation under that sub-section.

NOTE

1. Act No. 52, 1977; assented to 7 June 1977.