

# DAIRY INDUSTRY STABILIZATION AMENDMENT ACT 1978

**No. 94 of 1978**

An Act to amend the *Dairy Industry Stabilization Act 1977*.

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

Short title,  
&c.

1. (1) This Act may be cited as the *Dairy Industry Stabilization Amendment Act 1978*.<sup>1</sup>

(2) The *Dairy Industry Stabilization Act 1977*<sup>2</sup> is in this Act referred to as the Principal Act.

Commence-  
ment

2. This Act shall come into operation on 1 July 1978.

Interpret-  
ation

3. (1) Section 4 of the Principal Act is amended—

(a) by inserting after the definition of “authorized person” in sub-section (1) the following definition:

“ ‘eligible factory’, in relation to dairy products of a particular kind, means—

(a) a factory at which dairy products of that kind were produced at any time during the year that commenced on 1 July 1977; and

(b) any other factory determined by the Minister, in writing, to be an eligible factory in respect of dairy products of that kind;”;

(b) by inserting after the definition of “producer” in sub-section (1) the following definition:

“ ‘quota’ means a quota determined under section 11A or, if such a quota is varied, the quota as varied;” and

(c) by inserting after sub-section (1) the following sub-section:

“(1A) The Minister shall not determine that a factory is an eligible factory in respect of dairy products of a particular kind for the purposes of paragraph (b) of the definition of ‘eligible factory’ in sub-section (1) unless, in the opinion of the Minister, the making of the determination will assist in the promotion of the orderly development of the dairy industry in Australia.”;

(d) by adding at the end of sub-section (6) “any one or more of which may be periods that commenced before the date of commencement of the regulations”; and

(e) by adding at the end thereof the following sub-section:

“(8) For the purposes of this Act, where dairy products that are owned by a person are not sold by that person but become vested in another person by operation of law, the dairy products shall be deemed to have been sold by the first-mentioned person to that other person at the time the dairy products so vest, and that other person shall be deemed to have purchased the dairy products from the first-mentioned person at that time.”.

(2) Regulations may be made for the purposes of sub-section 4 (6) of the *Dairy Industry Stabilization Act* 1977 as amended by paragraph (1) (d) of this section at any time after this Act receives the Royal Assent.

4. Section 10 of the Principal Act is amended by inserting after paragraph (b) of sub-section (1) the following paragraph: Payments into Fund

“(ba) moneys transferred to the Fund out of a pool maintained under sub-section 20AB (2) of the *Dairy Produce Act* 1924 in accordance with a determination made by the Corporation under paragraph 20AB (12A) (a) of that Act;”.

5. After section 11 of the Principal Act the following section is inserted:

“11A. (1) The Minister shall, after consultation with the Corporation, formulate principles in accordance with which quotas are to be determined or may be varied under this section, and the Minister may from time to time, after further consultation with the Corporation, vary any principles so formulated. Determination of quotas

“(2) The Minister shall make public in such manner as he thinks appropriate principles, and any variations of principles, formulated by him under sub-section (1).

“(3) The Minister may, at any time before the end of a period that is a production period with respect to dairy products of a particular kind or dairy products of 2 or more particular kinds, by instrument in writing and in such form as the Minister considers appropriate, determine in respect of an eligible factory a quota for that period in respect of that kind of dairy products or in respect of those kinds of dairy products.

“(4) The Minister shall, in determining or varying quotas under sub-section (3)—

(a) act in accordance with the principles formulated by him under sub-section (1), or with those principles as varied by him; and

- (b) have regard to any information furnished to him by the Corporation for that purpose.

“(5) The Minister shall, as soon as practicable after determining or varying a quota under sub-section (3) in respect of an eligible factory, cause a copy of the determination or variation to be delivered to the Corporation and the Corporation shall, as soon as practicable after receiving the copy, forward to the proprietor of the factory notice in writing of the quota or of the variation.

“(6) The provisions of section 48 (except paragraphs (1) (a) and (b) and sub-section (2)) of the *Acts Interpretation Act* 1901 apply, by force of this section, to principles formulated under sub-section (1), and to variations of principles so formulated, in like manner as those provisions apply to regulations.

“(7) The powers conferred on the Minister by this section shall not be exercised in such a manner that stabilization payments under this Act would not be uniform throughout the Commonwealth, within the meaning of paragraph (iii) of section 51 of the Constitution.”.

Stabilization  
payments

6. Section 12 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(3) Where the Minister has determined quotas in respect of factories for a production period in respect of dairy products of a particular kind or particular kinds, a stabilization payment is not payable in respect of dairy products of that kind, or of any of those kinds, produced at a factory during that period unless the factory is a factory in respect of which such a quota has been determined.

“(4) Where the Minister has determined a quota in respect of a particular factory for a production period in respect of dairy products of a particular kind, a stabilization payment in respect of dairy products of that kind produced at that factory during that period is not payable in respect of so much of dairy products of that kind produced at that factory during that period as exceeds that quota.

“(5) Where the Minister has determined a quota in respect of a particular factory for a production period in respect of dairy products of 2 or more particular kinds, a stabilization payment in respect of dairy products of those kinds produced at that factory during that period is not payable in respect of so much of dairy products of those kinds produced at that factory during that period as exceeds that quota.”.

## 7. Section 13 of the Principal Act is amended—

- (a) by omitting sub-section (2) and substituting the following sub-section: Rates of  
stabilization  
payments

“(2) The rate of a stabilization payment is the amount per tonne ascertained in accordance with the formula  $\frac{a-(b+c)}{d}$ , where—

*a* is the aggregate of the amounts credited to the separate account in accordance with section 11, being moneys referred to in sub-section 10 (1) or paragraph 10 (2) (b), (ba), (c) or (e) or moneys (other than advances) referred to in paragraph 10 (2) (d);

*b* is the amount of the cost of administering the Fund that has been debited to the separate account;

*c* is the aggregate of payments made under sub-section 16 (5) and section 17 that have been debited to the separate account; and

*d* is the number of tonnes of dairy products to which the separate account relates produced at factories in Australia (other than dairy products that were, by section 9 of the Levy Act, exempt from levy) in respect of which stabilization payments are payable.”;

- (b) by omitting from paragraph (d) of sub-section (3) “and”; and

- (c) by inserting after paragraph (d) of sub-section (3) the following paragraph:

“(da) the quotas (if any) fixed in respect of dairy products of that kind for that production period; and”.

8. Section 16 of the Principal Act is amended by adding at the end thereof the following sub-section: Application  
of the Fund

“(5) The Corporation may, with the approval of the Minister, where it considers it appropriate to do so, credit the whole or any part of the amount (if any) standing to the credit of a separate account kept in respect of a kind of dairy products to the pool maintained by the Corporation under section 20AB of the *Dairy Produce Act* 1924 in respect of that kind of dairy products, and that separate account shall be debited accordingly.”.

9. After section 24 of the Principal Act the following section is inserted:

“24A. (1) Application may be made to the Administrative Appeals Tribunal for a review of a quota determined under section 11A or for review of a variation of such a quota. Applications  
for review

“(2) The principles in accordance with which the Minister was, by virtue of sub-section 11A (4), required to act in determining the quota or the variation are the principles in accordance with which the Administrative Appeals Tribunal shall act in reviewing the quota or the variation.”.

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#### NOTES

1. Act No. 94, 1978; assented to 22 June 1978.
2. Act No. 51, 1977.