

## EXPLANATORY STATEMENT

### STATUTORY RULES 1983 No. 175

Issued by the Authority of the Minister for Primary Industry

#### DAIRY PRODUCE EXPORT CONTROL (LICENCES) REGULATIONS (AMENDMENT)

The Dairy Produce Export Control (Licences) Regulations prohibit the exportation of dairy products from the Commonwealth except by a person who holds a licence. The regulations are designed to enable control to be exercised over the export of dairy produce.

Australia has entered into certain treaty obligations under the GATT International Dairy Arrangement (IDA) and, as a result, has undertaken to observe the conditions for the export of dairy products as laid down by the IDA. The IDA provides, inter alia, for minimum prices for certain dairy products exported to be observed at the free on board level. Since 1 October 1981 these have been as follows:

<u>Dairy Products</u>	<u>\$US. Per Tonne</u>
Skimmed milk powder	600
Whole milk powder	950
Buttermilk powder	600
Anhydrous milk fat	1,440
Butter	1,200
Cheese	1,000

## 2.

In December 1981, a Ministerial directive was issued to the Australian Dairy Corporation (ADC) to the effect that the ADC was to ensure that prices for dairy products, specified in the IDA Protocols, exported from Australia did not fall below IDA minimum prices. The ADC, in May 1982, advised all holders of export licences that they were required to observe IDA minimum prices and that a failure to do so may result in the ADC recommending to the Minister for Primary Industry that the licence be withdrawn. In taking this action, the ADC was exercising its powers under Regulation 10(a) of the Dairy Produce Export Control (Licences) Regulations to approve terms and conditions for the export of dairy produce to countries other than the United Kingdom.

Advice from the Attorney-General's Department has, however, indicated limitations on the Minister for Primary Industry's powers to give directions under the Dairy Produce Export Control (Licences) Regulations with regard to the terms and conditions for the export of dairy products and the cancellation of licences. In particular, the Minister for Primary Industry, in effect, cannot direct the ADC to direct private traders with regard to the observance of minimum prices. Further, in the absence of a proper direction, the Minister does not have the power to cancel or suspend licences following a breach of IDA minimum prices.

### 3.

The present situation is not regarded as fully satisfactory. It is therefore proposed to amend Regulation 8 of the Dairy Produce Export Control (Licences) Regulations to make the observance of IDA minimum prices a specific condition for the exporting of dairy products. In the event that a licensee is shown to have exported dairy products at a price below the specified IDA minimum, this will provide grounds for the Minister for Primary Industry cancelling or suspending the licence.

As the GATT IDA minimum price conditions apply to whole milk powder, it is considered desirable to prescribe whole milk powder as a dairy product under Regulation 4A to remove any doubt that it falls within the definitions of dairy products for the purposes of the Dairy Produce Export Control (Licences) Regulations.

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