



# **Dairy Produce Amendment Act 2004**

**No. 32, 2004**

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

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
<b>Schedule 1—Indemnification of industry services body</b>		<b>3</b>
	<i>Dairy Produce Act 1986</i>	3
<b>Schedule 2—Application of the Dairy Structural Adjustment Fund</b>		<b>4</b>
	<i>Dairy Produce Act 1986</i>	4
<b>Schedule 3—Depositing money of the Dairy Structural Adjustment Fund</b>		<b>8</b>
	<i>Dairy Produce Act 1986</i>	8





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## **An Act to amend legislation relating to the dairy industry, and for related purposes**

[Assented to 20 April 2004]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Dairy Produce Amendment Act 2004*.

### **2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	20 April 2004
2. Schedule 1	The day on which this Act receives the Royal Assent.	20 April 2004
3. Schedules 2 and 3	Immediately after the commencement of Schedule 1 to the <i>Dairy Industry Service Reform Act 2003</i> .	1 July 2003

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 contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Indemnification of industry services body**

### *Dairy Produce Act 1986*

#### **1 Before paragraph 79(o) of Schedule 2**

Insert:

(nc) in payment of amounts relating to the indemnity mentioned in clause 86A; and

#### **2 At the end of Part 3 of Schedule 2**

Add:

#### **86A Industry services body entitled to full indemnity**

- (1) The industry services body is entitled to be fully indemnified against any liability (including any liability as to costs) incurred by it in keeping and administering, or purporting to keep and administer, the Dairy Structural Adjustment Fund.
- (2) The indemnity is to be paid out of the assets of the Dairy Structural Adjustment Fund.

#### **3 Application**

The amendments made by this Schedule apply in relation to liabilities arising before, on or after the commencement of this item.

## Schedule 2—Application of the Dairy Structural Adjustment Fund

### *Dairy Produce Act 1986*

#### **1 Subclause 77C(1) of Schedule 2**

Repeal the subclause, substitute:

- (1) The industry services body may:
  - (a) borrow money; or
  - (b) raise money otherwise than by borrowing;for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended.

Note: The meaning of *raise money otherwise than by borrowing* is affected by clause 77CC.

Note: The heading to clause 77C of Schedule 2 is altered by inserting “**or raise money**” after “**borrow**”.

#### **2 Subclause 77C(2) of Schedule 2**

After “borrowing”, insert “or other raising of money”.

#### **3 After clause 77C of Schedule 2**

Insert:

#### **77CA Borrowing or raising money by dealing in securities**

- (1) Without limiting subclause 77C(1), the industry services body may, under that subclause, borrow money, or raise money otherwise than by borrowing, by dealing with securities.
- (2) In this clause:

*dealing with securities* includes:

  - (a) creating, executing, entering into, drawing, making, accepting, endorsing, issuing, discounting, selling, purchasing or re-selling securities; and
  - (b) creating, selling, purchasing or re-selling rights or options in respect of securities; and



- (c) entering into agreements or other arrangements relating to securities.

*securities* includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.

**77CB Hedging through currency contracts etc.**

- (1) This clause applies to the following contracts:
  - (a) currency contracts;
  - (b) interest rate contracts;
  - (c) futures contracts;
  - (d) contracts relating to:
    - (i) dealings known as currency swaps; or
    - (ii) dealings known as interest rate swaps;
  - (e) contracts relating to both of the dealings referred to in paragraph (d);
  - (f) options (including futures options).
- (2) The industry services body may enter into and deal with contracts to which this clause applies for hedging purposes in relation to a borrowing or raising, or a proposed borrowing or raising, of money under subclause 77C(1).
- (3) A contract is taken to be entered into or dealt with for hedging purposes only if the contract is entered into or dealt with for the purpose of managing the risk of variations in the costs of a borrowing or raising, or a proposed borrowing or raising, of money under subclause 77C(1).

- (4) In this clause:

***currency contract means:***

- (a) a forward exchange rate contract; or
- (b) a contract with respect to currency futures.

***futures contract means:***

- (a) a deferred delivery contract; or
- (b) a contract with respect to financial futures; or
- (c) a contract with respect to commodity futures.

**77CC Obtaining credit etc. taken to be raising of an amount of money, otherwise than by borrowing**

- (1) This clause applies if the industry services body:
  - (a) does a thing mentioned in the table in subclause (2); and
  - (b) does not do that thing in relation to a transaction that is in the ordinary course of its day-to-day operations.
- (2) By doing that thing, the industry services body is taken, for the purposes of this Part and subclause 94(2), to raise the relevant amount of money mentioned in the following table, otherwise than by borrowing:

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**Circumstances where the industry services body is taken to raise an amount of money, otherwise than by borrowing**

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<b>Item</b>	<b>If the industry services body...</b>	<b>by doing so, it is taken to raise this amount of money, otherwise than by borrowing...</b>
1	issues an instrument acknowledging a debt in consideration of the payment or deposit of money	the amount of the money paid or deposited
2	issues an instrument acknowledging a debt in consideration of the provision of credit	the value of the credit provided
3	obtains credit	the value of the credit obtained

**4 Paragraph 78(h) of Schedule 2**

After “borrowed”, insert “or otherwise raised”.

**5 After paragraph 78(h) of Schedule 2**

Insert:

- (ha) money received by the industry services body in respect of contracts entered into or dealt with by it under clause 77CB;

**6 Paragraph 79(m) of Schedule 2**

After “borrowed”, insert “or otherwise raised”.

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**7 Paragraph 79(n) of Schedule 2**

After “borrowing”, insert “or otherwise raising”.

**8 After paragraph 79(n) of Schedule 2**

Insert:

- (na) in meeting the obligations and liabilities of the industry services body in respect of contracts entered into or dealt with by it under clause 77CB; and
- (nb) in meeting the expenses of the industry services body incurred in respect of contracts entered into or dealt with by it under clause 77CB; and

**9 Paragraph 94(2)(c) of Schedule 2**

After “borrowed”, insert “or otherwise raised”.

**10 Paragraph 94(2)(d) of Schedule 2**

After “borrowing”, insert “or otherwise raising”.

**11 Paragraph 94(2)(d) of Schedule 2**

Omit “expanded.”, substitute “expanded;”.

**12 At the end of subclause 94(2) of Schedule 2**

Add:

- (e) in meeting the obligations and liabilities of the industry services body in respect of contracts entered into or dealt with by it under clause 77CB;
- (f) in meeting the expenses of the industry services body incurred in respect of contracts entered into or dealt with by it under clause 77CB.

## Schedule 3—Depositing money of the Dairy Structural Adjustment Fund

### *Dairy Produce Act 1986*

#### **1 Subclause 79A(2) of Schedule 2 (after paragraph (a) of the definition of *Australian ADI*)**

Insert:

(aa) the Reserve Bank of Australia; or

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*[Minister's second reading speech made in—  
House of Representatives on 3 December 2003  
Senate on 24 March 2004]*

(198/03)

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