Supplementary Dairy Assistance Scheme 2001

made under clause 37B of Schedule 2 to the

Dairy Produce Act 1986

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Part 1 Introductory

1 Name of scheme [see Note 1]

This scheme is the *Supplementary Dairy Assistance Scheme 2001*, also known as the *SDA Scheme*.

2 Commencement [see Note 1]

This scheme commences on gazettal.

3 Interpretation

(1) Unless the contrary intention appears, words and expressions not otherwise defined in this scheme mean what they mean in a similar context for the purposes of the DSAP Scheme as in force for the time being.

(2) In this scheme, unless the contrary intention appears:

*Act* means the *Dairy Produce Act 1986*.

*additional market milk payment right* means an SDA payment right granted under section 12 as an additional market milk payment right.

*approved form* means a form approved by the DAA for the purposes of this scheme or for the purposes of the DSAP scheme.

*basic market milk payment right* means an SDA payment right granted under section 12 as a basic market milk payment right.

*discretionary payment right* means an SDA payment right granted under section 13.

*lump sum payment* means a payment under an agreement under subsection 28 (3).

*market milk number*, for a dairy farm enterprise, means the number worked out using the formula:

\[
100 \times \frac{\text{Total number of litres of market milk delivered by the qualifying enterprise in the 1998–1999 financial year}}{\text{Total number of litres of market milk delivered by that enterprise in that year} + \text{Total number of litres of manufacturing milk delivered by that enterprise in that year}}
\]

*owner of an SDA unit* means the entity whose ownership of the unit is entered on the register.

*qualifying enterprise*, in relation to an entity, means a dairy farm enterprise in respect of which the entity has been granted a payment right under the DSAP scheme.

*qualifying period* means the period starting on 1 July 1998 and ending at 6.30 pm on 28 September 1999.
reconsideration request period, in relation to a decision under this scheme, means:

(a) the period of 28 days after the day the decision first comes to the attention of the entity concerned;

(b) if the decision relates to an additional market milk payment right or basic market milk payment right and the entity concerned accepts the decision under paragraph 36 (1) (b) (thereby waiving its rights to reconsideration) — the period ending when the DAA receives the notice of acceptance.

register means the register kept under section 33 of the DSAP scheme.

Review Tribunal means:

(a) the Administrative Appeals Tribunal; or

(b) the Administrative Review Tribunal (if that tribunal replaces the Administrative Appeals Tribunal).

(3) Section 4 of the DSAP Scheme is to be applied, for the purposes of determining whether an arrangement is an eligible dairy sharefarming arrangement for the purposes of this scheme, as if there were added at the end of subsection 4 (1): “An arrangement that provides that a fixed percentage share of milk revenue is to be shared under the arrangement may be an eligible dairy sharefarming arrangement even if it provides that the fixed percentage share of the milk revenue to be shared under the arrangement is worked out after deducting costs or expenses specified in the arrangement.”.

(4) A reference in this scheme to an entity’s eligible lease income is a reference to the income the entity derived as rent from a qualifying enterprise. If the entity concerned is one of 2 or more lessors, the entity’s eligible lease income is the same percentage of the eligible lease income of the qualifying enterprise as the entity’s percentage of the land lease income, as determined for the purposes of the DSAP Scheme.

(5) A reference in this scheme to the total number of litres of market milk, or the total number of litres of manufacturing milk, delivered by a qualifying enterprise in the 1998–1999 financial year is a reference to that number as determined by the DAA to be taken to be delivered by that enterprise in that year.

Note: The following terms used in this scheme are defined in the Act or the DSAP scheme:
base year (DSAP scheme)
business day (Act)
DAA (Act)
dairy farm enterprise (Act)
dairy-type grant (Act).
deliver (Act)
DSAP payment (Act)
DSAP unit (Act)
eligible dairy leasing arrangement (DSAP scheme)
eligible dairy sharefarming arrangement (DSAP scheme)
entity (Act)
exceptional event (DSAP Scheme)
industry services body (Act)
manufacturing milk (Act)
market milk (Act)
milk (DSAP scheme)
owner (DSAP scheme)
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public officer (DSAP Scheme)
quarter (Act)
register (DSAP scheme)
SDA payment (Act)
SDA payment right (Act)
standard payment right (DSAP scheme)
support or adjustment payment (DSAP scheme)
unit (Act)
Part 2 Eligibility for SDA payment rights

4 How this Part relates to other provisions

An entity’s eligibility for an SDA payment right as set out in this Part is subject to any restrictions on the entity’s eligibility set out in the Act or in this scheme.

Note See, for example, subsection 11 (3).

5 Restrictions on eligibility

Additional market milk payment rights and basic market milk payment rights — support or adjustment payment declaration

(1) An entity is not eligible for an additional market milk payment right or a basic market milk payment right unless the entity has given a declaration to the DAA, in an approved form and signed by a person mentioned in paragraph 15 (4) (c) of the DSAP scheme, to the effect that:

(a) the entity does not have a current, undetermined application for a payment under the DEP scheme; and

(b) the entity has not received, after 6:30 pm on 28 September 1999, a payment under the DEP scheme or, if it has, it has paid an equal amount to the Commonwealth by way of repayment.

Interest in dairy farm enterprise declaration

(2) An entity is not eligible for an additional market milk payment right or a basic market milk payment right unless the entity has given a declaration to the DAA, in an approved form and signed by a person mentioned in paragraph 15 (4) (c) of the DSAP scheme, to the effect that the entity satisfies the condition in paragraph 6 (1) (b).

Discretionary payment rights — support or adjustment payment declarations

(3) An entity is not eligible for a discretionary payment right unless the entity has given a declaration to the DAA, in an approved form and signed by a person mentioned in paragraph 15 (4) (c) of the DSAP scheme, to the effect that:

(a) the entity does not have a current, undetermined application for a support or adjustment payment; and

(b) the entity has not received, after 6:30 pm on 28 September 1999, a support or adjustment payment or, if it has, it has paid an equal amount to the Commonwealth by way of repayment.
Part 2

Eligibility for SDA payment rights

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6 Who is eligible for additional market milk payment rights and basic market milk payment rights

Additional market milk payment rights

(1) An entity is eligible to be granted an additional market milk payment right if:

(a) the entity has been granted a DSAP payment right; and

(b) the entity held an interest of a kind mentioned in subsection (4) in the qualifying enterprise, or in another dairy farm enterprise, at 6:30 pm on 21 May 2001; and

(c) the market milk number for the qualifying enterprise (rounding to 1 decimal place and rounding up if the second decimal place is 5 or more) is at least 35.1.

Basic market milk payment rights

(2) An entity is eligible to be granted a basic market milk payment right if:

(a) the entity has been granted a DSAP payment right; and

(b) the entity held an interest of a kind mentioned in subsection (4) in the qualifying enterprise, or in another dairy farm enterprise, at 6:30 pm on 21 May 2001; and

(c) the market milk number for the qualifying enterprise (rounding to 1 decimal place and rounding up if the second decimal place is 5 or more) is at least 25.1.

Eligibility for both additional market milk payment rights and basic market milk payment rights

(3) If an entity is eligible to be granted a basic market milk payment right and an additional market milk payment right, the entity is eligible to be granted the payment right with the higher face value and is not eligible to be granted the other payment right.

(4) The kinds of interests are the following:

(a) an interest as owner of the dairy farm enterprise;

(b) an interest as a sharefarmer;

(c) an interest as land lessee;

(d) an interest as land lessor;

(e) an interest as a beneficiary of a trust, the trust property of which is or includes a dairy farm enterprise;

(f) an interest as a shareholder in a proprietary company that operates a dairy farm enterprise.

7 Eligibility for discretionary payment rights

An entity is eligible for a discretionary payment right only if the entity is eligible because of section 8 or section 9.
8 Eligibility for discretionary payment rights — significant events, significant crises and significant anomalous circumstances

(1) An entity is eligible for a discretionary payment right because of this section if:

(a) the entity held an interest of a kind mentioned in subsection (2) in a dairy farm enterprise at any time during the qualifying period; and

(b) either:

(i) the entity is taken to be affected by a significant event or a significant crisis because of subsection (3); or

(ii) the entity is taken to be affected by significant anomalous circumstances because of subsection (5).

(2) The kinds of interests are the following:

(a) an interest as a sharefarmer, lessor, lessee or owner-operator because of which the entity was granted a payment right under the DSAP scheme;

(b) if the entity was not granted a payment right under the DSAP scheme:

(i) an interest as a party to an eligible dairy share farming arrangement; or

(ii) an interest as a party to an eligible dairy leasing arrangement; or

(iii) a proprietary interest in the land on which a milking shed is situated; or

(iv) an interest as an owner of a dairy farm enterprise;

(c) an interest as a party to a binding contract or other binding arrangement under which the entity would, during or after the end of the qualifying period, be entitled to hold an interest in a dairy farm enterprise as described in paragraph (b).

(2A) A contract or arrangement conferring an option or a similar right is not a contract or arrangement for the purposes of paragraph (2) (c) unless the entity exercised the option or right, and acquired the interest, before the end of the period after 6.30 pm on 28 September 1999 that, in the circumstances, is reasonable.

Significant events or significant crises

(3) An entity is taken to be affected by a significant event or a significant crisis because of this subsection if but only if:

(a) the entity held an interest in a dairy farm enterprise at 6:30 pm on 28 September 1999; and

(b) the event or crisis is:

(i) an illness of a person that had a detrimental effect on the management of the dairy farm enterprise mentioned in paragraph (a); or

(ii) a person’s incapacity to work due to injury that had such an effect; or

(iii) a person’s death that had such an effect; or
Part 2  Eligibility for SDA payment rights

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(iv) the disease or death of 1 or more dairy animals kept by the enterprise mentioned in paragraph (a) that had a detrimental effect on the production or delivery of milk during the 1998–1999 financial year; or

(v) an exceptional event; and

(c) there was a significant reduction in the volume of milk delivered by the dairy farm enterprise mentioned in paragraph (a) during the base year compared to the enterprise’s normal year volume of milk; and

(d) the Minister is satisfied that the reduction was attributable to the event or crisis.

(4) For the purposes of paragraph (3) (c), but without limiting that paragraph, if the volume of milk delivered by an enterprise during the base year is less than 70% of the enterprise’s normal year volume of milk, the reduction may be taken to be significant.

Significant anomalous circumstances

(5) An entity is taken to be affected by significant anomalous circumstances because of this subsection if but only if:

(a) all the following apply:

(i) the entity held an interest in a dairy farm enterprise at 6.30 pm on 28 September 1999;

(ii) before 28 September 1999 there was a change or an atypical feature in the ownership or management of the enterprise;

(iii) the Minister determines that the change or feature significantly and adversely affected the entity’s eligibility for a payment right under the DSAP scheme, or significantly and adversely affected the face value of such a payment right;

(iv) the Minister determines that this subsection should apply to the entity; or

(b) all the following apply:

(i) the entity held an interest in a dairy farm enterprise shortly before 28 September 1999 but had assigned the interest to another person by that date;

(ii) the entity did not, on that date, hold an interest in a dairy farm enterprise except as mentioned in subparagraph (iii);

(iii) at 6.30 pm on 28 September 1999 the entity was a party to a binding contract or other binding arrangement under which it would, after that date, be entitled to hold an interest in a dairy farm enterprise;

(iv) the Minister determines that this subsection should apply to the entity; or

(c) all the following apply:

(i) the entity held an interest of a kind mentioned in paragraph (2) (b) or (2) (c) in a dairy farm enterprise shortly before 28 September 1999;
(ii) on or shortly after 28 September 1999 the entity held an interest in a dairy farm enterprise only as mentioned in paragraph (2) (c) (whether or not the entity held an interest in another dairy farm enterprise at that time);

(iv) the Minister determines that this subsection should apply to the entity.

(7) In this section:

dairy farm enterprise includes a business in Australia carried on with a view to delivering market milk or manufacturing milk during the qualifying period but did not deliver such milk during that period.

an enterprise’s normal year volume of milk is:

(a) the average of the total number of litres of market milk and manufacturing milk delivered by the enterprise in the 3 financial years immediately before the base year; or

(b) if the volume worked out under paragraph (a) does not, in the opinion of the DAA, fairly represent a normal year’s delivery for the enterprise — the volume of milk that, in the DAA’s opinion, does fairly represent a normal year’s delivery for the enterprise.

9 Eligibility for discretionary payment rights — fall in lease income

(1) An entity satisfies this section if:

(a) the entity was granted a payment right under the DSAP scheme in respect of a lessor interest the entity held in a dairy farm enterprise; and

(b) the entity is not taken, under section 8, to have been affected by a significant event, a significant crisis or significant anomalous circumstances; and

(c) the entity passes the lease income test.

(2) For the purposes of this section, an entity held a lessor interest in a dairy farm enterprise if, under the DSAP scheme:

(a) the enterprise was taken to be subject to an eligible dairy leasing arrangement; and

(b) the entity was taken to be a party to that arrangement as the lessor of land.

(3) For the purposes of this section, an entity passes the lease income test if:

(a) both:

(i) more than 50% of the total gross income derived by the entity in the 1999–2000 financial year consisted of eligible lease income; and

(ii) the eligible lease income derived by the entity in the 2000–2001 financial year is at least 20% less than the eligible lease income derived by the entity in the 1999–2000 financial year; or
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(b) both:
   (i) more than 50% of the total gross income derived by the entity in the 1999–2000, 1998–1999 and 1997–1998 financial years consisted of eligible lease income; and
   (ii) the eligible lease income derived by the entity in the 2000–2001 financial year is at least 20% less than the average of the eligible lease income derived by the entity in the 1999–2000, 1998–1999 and 1997–1998 financial years.

(4) For the purposes of this section, the total gross income of an entity is to be worked out in accordance with generally accepted accounting principles.

10 Deceased estates

Additional market milk payment rights and basic market milk payment rights — individual dies after 28 September 1999 but at or before 6.30 pm on 21 May 2001

(1) If:
   (a) an individual has been granted a DSAP payment right; and
   (b) the individual dies after 28 September 1999 but at or before 6.30 pm on 21 May 2001; and
   (c) the individual’s legal personal representative held an interest of a kind mentioned in subsection 6 (4) in the qualifying enterprise, or in another dairy farm enterprise, at 6:30 pm on 21 May 2001; and
   (d) the market milk number for the qualifying enterprise satisfies the requirements of paragraph 6 (2) (c) or 6 (3) (c);

this scheme has effect as if:
   (e) the individual’s legal personal representative were the individual; and
   (f) whatever the individual did or did not do that affects his or her eligibility for an additional market milk payment right or a basic market milk payment right, or the face value of such a right, had been done or omitted by the legal personal representative.

Additional market milk payment rights and or basic market milk payment rights — individual dies after 6.30 pm on 21 May 2001

(2) If an individual held an interest of a kind mentioned in subsection 6 (4) in a dairy farm enterprise at 6.30 pm on 21 May 2001, but dies after that time, this scheme has effect as if:
   (a) the individual’s legal personal representative were the individual; and
   (b) whatever the individual did or did not do that affects his or her eligibility for an additional market milk payment right or a basic market milk payment right, or the face value of such a right, had been done or omitted by the legal personal representative.
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Discretionary payment rights — individual dies after 6.30 pm on 28 September 1999

(3) If:

(a) an individual had an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999 (the relevant time); and

(b) the individual dies after the relevant time but before a decision is made whether to grant the individual a discretionary payment right; this scheme has effect as if:

(c) the individual’s legal personal representative had held the eligible interest at the relevant time; and

(d) everything the individual did or did not do that affects his or her eligibility for a discretionary payment right had been done or omitted by his or her legal personal representative.
Part 3 Granting SDA payment rights

Section 11

11 Seeking further information

(1) The DAA may ask an entity who it considers may be entitled to an SDA payment right:
   (a) to give the DAA specified information relevant to the matter; or
   (b) to verify by statutory declaration specified information relevant to the matter.

(2) Despite sections 12 and 13, if the DAA makes a request of an entity under subsection (1) before an SDA payment right is granted to the entity, an SDA payment right cannot be granted to the entity unless:
   (a) the entity, or a person acting on behalf of the entity, complies with the request; or
   (b) the DAA is satisfied that the entity cannot comply with the request.

(3) Despite Part 2, if the DAA makes a request of an entity under subsection (1) before an SDA payment right is granted to the entity but the entity, or a person acting on behalf of the entity, has not complied with the request before the end of 6 months after the request is made, the entity is not eligible for an SDA payment right.

(4) The DAA may, on application by an entity or of its own motion, extend the period fixed by subsection (3), either before or after the period has ended.

12 Grants of additional market milk payment rights and basic market milk payment rights

Grant of additional market milk payment rights and basic market milk payment rights

(1) As soon as practicable after the commencement of this scheme, the DAA must decide, for each entity to which it has decided a DSAP payment right is to be granted:
   (a) whether the entity is eligible for an additional market milk payment right or a basic market milk payment right; and
   (b) if it is eligible — the face value of the right.

(2) A decision under subsection (1) may be made subject to the condition that the entity concerned give the DAA the declarations mentioned in subsections 5 (1) and (2).

(3) If the decision under subsection (1) is that the entity is eligible for an additional market milk payment right or a basic market milk payment right, the DAA must, at the same time but subject to the Act and the rest of this scheme, decide that the entity will be granted an additional market milk payment right or a basic market milk payment right, as appropriate, at the
time and of the face value ascertained in accordance with subsections (4) and (5).

*Time of grant of additional market milk payment rights or basic market milk payment rights*

(4) The time at which an additional market milk payment right or a basic market milk payment right is granted is:

(a) as soon as practicable after the end of the reconsideration request period in respect of the decision under subsection (1), consistently with the other paragraphs in this subsection; but

(b) if the decision under subsection (1) is subject to the condition mentioned in subsection (2) — not before the declarations mentioned in that subsection are received by the DAA; and

(c) if, by the end of the reconsideration request period, the DAA has received a request that requires it to reconsider the decision — not before the DAA makes a decision as a result of the reconsideration, the effect of which is that the entity is eligible for an additional market milk payment right or a basic market milk payment right.

*Note 1* If the DAA receives a request to reconsider a decision but does not confirm, revoke or vary the decision within 60 days, section 36 (7) says that the DAA is taken to have confirmed the decision. The 60 day period may be extended — *see* subsection 36 (8).

*Note 2* If the decision is reviewed by the Administrative Appeals Tribunal (*see* section 36), any decision that that Tribunal makes in substitution for the DAA’s decision is taken to be the DAA’s decision and, unless the Administrative Appeals Tribunal otherwise orders, is deemed to have had effect on and from the day on which the DAA’s decision had effect: *see* *Administrative Appeals Tribunal Act 1975* section 43 (6).

(4A) If a decision under subsection (1) is that the entity is eligible for an additional market milk payment right or a basic market milk payment right subject to the condition mentioned in subsection (2), but the declaration mentioned in subsection (2) is not given to the DAA within 60 days after the decision comes to the entity’s attention for the purposes of subsection 36 (1) or by 31 July 2002, whichever is the later, the decision under subsection (1) is taken to be, and always to have been, a decision that the entity is not eligible for an additional market milk payment right or a basic market milk payment right, as the case requires.

(4B) The Minister may, on application by the entity or of his or her own motion, extend the period fixed by subsection (4A), either before or after the period has ended.

*Face value of additional market milk payment rights and basic market milk payment rights*

(5) The face value of an additional market milk payment right or a basic market milk payment right granted under this section is:

(a) the face value specified in the decision under subsection (1); or
(b) if the DAA makes a decision as a result of the reconsideration of a decision, the effect of which is that the entity is eligible for an additional market milk payment right or a basic market milk payment right — the face value determined on the reconsideration.

13 Grants of discretionary payment rights

Decision to grant discretionary payment right

(1) At any time after the commencement of this scheme the Minister may decide:
(a) that an entity is eligible for a discretionary payment right; and
(b) if the Minister decides that entity is eligible:
   (i) whether to grant the right; and
   (ii) if the Minister decides to grant the right — the face value of the right and the time at which the right is granted.

(1A) A decision under subsection (1) may not be made after 1 January 2003 and before the day on which the Supplementary Dairy Assistance Scheme 2001 Variation (No. 8) commences, unless:
(a) the decision is made under section 36 (which relates to reconsideration of decisions) or by the Review Tribunal; or
(b) the Minister determines that, in the circumstances, the decision should be made.

(1AA) A decision under subsection (1) may not be made on or after the day on which the Supplementary Dairy Assistance Scheme 2001 Variation (No. 8) commences.

(2) A decision under subsection (1) may be made subject to the condition that the entity concerned give the DAA a declaration mentioned in subsection 5 (3).

(3) In deciding whether an entity is to be granted a discretionary payment right, the matters that the Minister must take into account include any information the DAA gives to the Minister in relation to the matter.

(4) If the decision under subsection (1) is that the entity is to be granted a discretionary payment right, the Minister must, at the same time but subject to the Act and the rest of this scheme, decide that the entity will be granted a discretionary payment right at the time and of the face value ascertained in accordance with subsections (5) and (8).

Time of grant of discretionary payment rights

(5) The time at which a discretionary payment right is granted is:
(a) as soon as practicable after the end of the reconsideration request period in respect of the decision under subsection (1), consistently with the other paragraphs in this subsection; but
(b) if the decision under subsection (1) is subject to the condition mentioned in subsection (2) — not before the declaration mentioned in that subsection is received by the DAA; and
(c) if, by the end of the reconsideration request period, the DAA has received a request that requires the decision to be reconsidered — not before a decision is made as a result of the reconsideration, the effect of which is that the entity is eligible for a discretionary payment right.

Note 1 If the DAA receives a request that requires the decision to be reconsidered but the decision is not confirmed, revoked or varied within 60 days, section 36 (7) says that the decision is taken to have been confirmed. The 60 day period may be extended — see subsection 36 (8).

Note 2 If the decision is reviewed by the Administrative Appeals Tribunal (see section 36), any decision that that Tribunal makes in substitution for the Minister’s decision is taken to be the Minister’s decision and, unless the Administrative Appeals Tribunal otherwise orders, is deemed to have had effect on and from the day on which the Minister’s decision had effect: see Administrative Appeals Tribunal Act 1975 section 43 (6).

(6) If a decision under subsection (1) is that the entity is eligible for a discretionary payment right subject to the condition mentioned in subsection (2), but the declaration mentioned in that subsection is not given to the DAA within 60 days after the decision comes to the entity’s attention for the purposes of subsection 36 (1) or by 31 July 2002 whichever is the later, the decision under subsection (1) is taken to be, and always to have been, a decision that the entity is not eligible for a discretionary payment right.

(7) The Minister may, on application by an entity or of his or her own motion, extend the period fixed by subsection (6), either before or after the period has ended.

Face value of discretionary payment rights

(8) The face value of a discretionary payment right granted under this section is:

(a) the face value specified in the decision under subsection (1); or

(b) a decision is made as a result of the reconsideration of a decision, the effect of which is that the entity is eligible for a discretionary payment right — the face value determined on the reconsideration.

Limits on number of discretionary payment rights

(9) No more than 1 discretionary payment right may be granted to an entity in respect of a dairy farm enterprise.

14 Notice of decision

(1) If a decision is made under section 12 or 13 about an SDA payment right, the DAA must give an entity who is affected by the decision a notice setting out the decision as soon as practicable after the decision is made.

(2) The notice must:

(a) in the case of a decision about a discretionary payment right — state whether the decision was made by the Minister or by the DAA as delegate of the Minister; and
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(b) if the decision relates to an additional market milk payment right or a basic market milk payment right — state that the entity may, within 28 days after the decision comes to its attention:

(i) if the entity is dissatisfied with the decision, ask the DAA to reconsider the decision; or

(ii) tell the DAA that it accepts the decision, thereby waiving its right to reconsideration of the decision; and

(c) if the decision relates to a discretionary payment right and was made by the DAA as delegate of the Minister — state that the entity may, within 28 days after receiving notice of the decision, ask the DAA to reconsider the decision; and

(d) if the decision relates to a discretionary payment right and was made by the Minister — state that the entity may, within 28 days after receiving notice of the decision, ask the Minister to reconsider the decision; and

(b) state that, if the entity is dissatisfied with a decision made on the reconsideration confirming or varying the decision, apply to the Review Tribunal for review of the decision as confirmed or varied.
Part 4  

15 Face value of additional market milk payment rights and basic market milk payment rights

Additional market milk rights 

(1) The face value of an entity’s additional market milk payment right is worked out using the formula:

\[
\text{overall market milk amount for the qualifying enterprise} \times \frac{\text{face value of that part of the entity’s DSAP payment rights as is attributable to market milk}}{\text{face value of that part of all the DSAP payment rights granted, or that an entity is or was eligible to granted, as is attributable to market milk delivered for the qualifying enterprise}}
\]

(2) In subsection (1), the overall market milk amount for a qualifying enterprise is the amount worked out using the formula:

\[
\text{relevant cents} \times \frac{\text{total number of litres of market milk delivered by the qualifying enterprise in the 1998–1999 financial year}}{}
\]

where:

**relevant cents** means:

(a) if the market milk number is at least 45 — 12 cents; or
(b) if the market milk number is at least 35.1 and less than 45 — the number of cents worked out using the formula:

\[
\frac{(\text{market milk number} – 35)}{1.2}
\]

(3) However, if the amount worked out under subsection (2) is more than $60,000, the overall market milk amount is taken to be $60,000.

Basic market milk rights 

(4) The face value of an entity’s basic market milk payment right is worked out using the formula:

\[
\text{overall market milk amount for the qualifying enterprise} \times \frac{\text{face value of that part of the entity’s DSAP payment rights as is attributable to market milk}}{\text{face value of that part of all the DSAP payment rights granted, or that an entity is or was eligible to granted, as is attributable to market milk delivered for the qualifying enterprise}}
\]
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(5) In subsection (4), the **overall market milk amount** for a qualifying enterprise is:

(a) if the market milk number for the enterprise is at least 25.1 and less than 30.1 — $10,000; or

(b) if the market milk number is at least 30.1 — $15,000.

(6) However, if:

(a) the entity has been granted a DSAP payment right; and

(b) the conditions in paragraphs 51 (1) (a), (b) and (c) of Schedule 2 of the Act are satisfied in relation to the entity; and

(c) because of subclause 51 (2) of Schedule 2 of the Act the DAA cannot cancel 1 or more units in the DSAP payment right;

the face value of the basic market milk payment right or the additional market milk payment rights is reduced by an amount equal to $32 \times \text{the number of units in the DSAP payment right that the DAA cannot cancel because of subclause 51 (2) of Schedule 2 of the Act. If the amount of the reduction is more than the face value of the payment right, the face value of the payment right is zero.}

*Note*  Schedule 2 clause 51 of the Act, and section 36 of the DSAP scheme, relate to cases where there has been an error by the DAA.

(7) In relation to a grant of a DSAP payment right after subsection 48 (3) of the Acts Interpretation Act 1901 caused the Dairy Structural Adjustment Program Scheme Amendment 2000 (No. 4) (the **amendment**) to cease to have effect, subsection 15 (6) does not apply to the extent that the grant would have been correct if the amendment had been in effect.

16 **Face value of discretionary payment rights**

*Payment rights granted under section 8 — significant events, significant crises and significant anomalous circumstances*

(1) The face value of a discretionary payment right granted to an entity on the basis that it is eligible for the payment right because of section 8 is the amount determined by the Minister in relation to the right.

(2) In determining the face value of such a discretionary payment right, the Minister must take the following into account:

(a) the extent to which the event, crisis or anomalous circumstance contributed to the reduction in the amount of milk delivered, or to the way in which the DSAP payment rights in respect of the enterprise concerned were shared between the parties to any arrangement in respect of the enterprise;

(b) the amount that would have been the face value of a standard payment right for the entity if the volume of milk delivered by the qualifying enterprise in the base year had been the same as the qualifying enterprise’s normal year volume of milk;
(c) if the entity was granted the discretionary payment right on the basis that paragraph 8 (5) (b) or (c) applies — the volume of milk delivered in the base year by the enterprise in which the entity acquired an interest as mentioned in those paragraphs;

(d) if the entity is eligible for an additional market milk payment right or a basic market milk payment right in respect of the relevant dairy farm enterprise — the amount that would have been the face value of that additional market milk payment right or basic market milk payment right if the volume of milk delivered by the qualifying enterprise in the base year had been the same as the enterprise’s normal year volume of milk;

(e) if the entity would be eligible for an additional market milk payment right or a basic market milk payment right in respect of the relevant dairy farm enterprise but for paragraph 6 (1) (a) — the face value of any additional market milk payment right or basic market milk payment right for the entity in respect of that enterprise if it were so eligible.

Payment rights granted under section 9 — fall in entity’s eligible lease income

(3) The face value of a discretionary payment right granted to an entity on the basis that it is eligible for the payment right because of section 9 is the amount worked out using the formula:

\[3 \times \text{reduction in entity’s eligible lease income}\]

where:

\textit{reduction in entity’s eligible lease income} means the higher of the following amounts:

(a) the amount of the reduction in the eligible lease income in the 2000–2001 financial year from the amount of eligible lease income in the 1999–2000 financial year; and


17 Discretionary payment rights — caps

Payment rights granted under section 8

(1) The total face value of a discretionary payment right granted to an entity in respect of a particular dairy farm enterprise on the basis that it is eligible because of section 8 must not be more than:

(a) the amount that would have been the face value of a standard payment right if the volume of milk delivered by the enterprise in the base year had been the same as the enterprise’s normal year volume of milk; and
Part 4  
Face value of SDA payment rights

Section 17A

(b) the amount that would have been the face value of an additional market milk payment right or basic market milk payment right (whichever is appropriate) granted to the entity if it were eligible for it and the volume of milk delivered by the enterprise in the base year had been the same as the enterprise’s normal year volume of milk; less the total of the following payment rights granted to the entity in respect of the enterprise:

(c) all payment rights under the DSAP Scheme;
(d) any additional market milk payment right;
(e) any basic market milk payment right.

Payment right granted under section 9

(2) The face value of all discretionary payment rights granted in respect of a particular dairy farm enterprise on the basis that the entity satisfies section 9 must not be more than $60,000.

17A  
Discretionary payment rights granted on section 9 basis—refunding DSAP overpayments

If:

(a) an entity has been granted a discretionary payment right on the basis that it is eligible for the payment right because of section 9; and
(b) the entity has been granted a DSAP payment right; and
(c) the conditions in paragraphs 51 (1) (a), (b) and (c) of Schedule 2 of the Act are satisfied in relation to the entity; and
(d) because of subclause 51 (2) of Schedule 2 of the Act the DAA cannot cancel 1 or more units in the DSAP payment right;

the face value of the discretionary payment right as worked out in accordance with sections 16 and 17 is reduced by an amount equal to $32 × the number of units in the DSAP payment right that the DAA cannot cancel because of subclause 51 (2) of Schedule 2 of the Act. If the amount of the reduction is more than the face value of the payment right as so worked out, the face value of the payment right is zero.

Note  Schedule 2 clause 51 of the Act, and section 36 of the DSAP scheme, relate to cases where there has been an error by the DAA.

17B  
No double refunding of DSAP overpayments

For an entity, the total of the amounts by which:

(a) the face value of a basic market milk payment right or a additional market milk payment right is to be reduced under subsection 15 (6); and
(b) the face value of a discretionary payment right is to be reduced under section 17A;

is not to be more than the amount equal to $32 × the number of units in the DSAP payment right that the DAA cannot cancel because of subclause 51 (2) of Schedule 2 of the Act.
Part 5  SDA units in SDA payment rights

Division 5.1  SDA units in SDA payment rights

18  Number of SDA units in an SDA payment right

Each SDA payment right consists of the number of SDA units worked out as follows:

(a) divide the face value of the payment right by 32;
(b) if the result is a whole number of dollars, that number is the number of SDA units in the payment right;
(c) if the result is less than $1, there is 1 SDA unit in the payment right;
(d) if the result is more than $1, but is not a whole number of dollars:
   (i) round the result up or down to the nearest whole number (rounding up in the case of a number exactly half-way between 2 whole numbers); and
   (ii) the rounded number is the number of SDA units in the payment right.

19  Transfer of SDA units

(1) The owner of an SDA unit may:
   (a) transfer ownership of the unit to another entity; or
   (b) grant a charge over the unit to another entity.

(2) However, the owner of an SDA unit must not:
   (a) dispose of a unit in respect of which a lump sum payment is to be made or has been made;
   (b) dispose of the unit by way of a declaration of trust; or
   (c) transfer a beneficial interest in the unit independently of the legal interest in the unit; or
   (d) transfer ownership of the unit if a charge is registered over it.

(3) A purported disposal or transfer that contravenes subsection (2) is of no effect.

(4) If an individual who owns an SDA unit dies, the ownership of the unit is transferred by force of this subsection to the legal personal representative of the individual.

(5) A transfer of ownership or grant of a charge is of no effect unless it is registered under section 20.

(6) To avoid doubt, subsections (2) and (5) apply in relation to a transfer to a person as beneficiary of the estate of a deceased holder of SDA units.
20 SDA units to be included in the register

(1) The DAA must include in the register the following particulars of each SDA unit:

(a) for the entity who owns the unit:
   (i) the entity’s name and address; and
   (ii) if the entity is a corporation — its Australian Business Number (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*) or its Australian Company Number or Australian Registered Body Number (within the meaning of the *Corporations Act 2001*); and
   (iii) details of the account nominated by the entity to receive payments; and
   (iv) the number of SDA units owned by the entity; and
   (v) whether the entity has applied for a dairy exit payment or a dairy-type grant;

(b) for each charge over the unit:
   (i) the name and address of the entity in whose favour the charge is granted; and
   (ii) the amount of the charge;

(c) details of payments that have been made in relation to the unit;

(d) a register identification number.

(2) If an entity transfers ownership of an SDA unit, or grants a charge over an SDA unit, either party to the transaction may notify the DAA about the transaction.

(3) If a charge over an SDA unit is discharged, the entity in whose favour the charge was granted may notify the DAA that the unit is no longer subject to the charge.

(4) A notice under subsection (2) or (3) must be in an approved form.

(5) A notice under subsection (2) must include a declaration by the transferee or, if the transferee is a corporation, its public officer, certifying that the documents effecting the transfer or the grant of the charge have been stamped as required by a law of a State or Territory that relates to stamp duty.

(6) If the DAA receives notice of a transaction under subsection (2) or (3), it must amend the register to show the revised details of the SDA unit, and the date of the transaction.

(7) However, a transfer of the ownership of an SDA unit may only be registered if:
   (a) the transferee:
      (i) is a primary producer; or
      (ii) acquires ownership of the unit as the beneficiary of a deceased estate; or
(iii) is already the registered owner of 1 or more DSAP units or SDA units, unless the transferee is a bank or other financial institution; or

(b) the transferee gives the DAA a written undertaking to transfer the SDA unit to a primary producer within 60 days after the transfer is registered.

Note If the entity breaches this undertaking, the DAA may commence procedures leading to cancellation of the SDA unit: see section 24.

(8) Despite subsection (6), the DAA must not give effect to a direction, notice or request in respect of a matter specified in paragraph 20 (1) (a) from an entity who owns an SDA unit that is subject to a registered charge unless:

(a) the chargee has joined in or agreed to the direction, notice or request; or

(b) the DAA has given at least 14 days written notice to the chargee.

This subsection does not affect the operation of section 32.

(9) In this section:

primary producer has the same meaning as in section 157 of the Income Tax Assessment Act 1936.

20A Inspection of register

If the owner of an SDA unit, or another person with the owner’s written consent, asks the DAA to do so, the DAA must:

(a) allow the owner or other person to inspect an entry in the register relating to the unit; or

(b) give the owner or other person a copy of an entry in the register relating to the unit.

Division 5.2 Cancellation of SDA units

21 Cancellation of SDA units — false statement

(1) Subsection (2) applies if:

(a) before an SDA payment right is granted, an entity makes a false statement to a person exercising powers, or performing functions, under or in connection with Part 2 of Schedule 2 to the Act, the DSAP scheme or this scheme; and

(b) an SDA payment right is granted because of the making of the false statement.

(2) If this subsection applies, the DAA may cancel all of the SDA units in the payment right.

(3) Subsection (4) applies if:

(a) before an SDA payment right is granted, an entity makes a false statement to a person exercising powers, or performing functions under or in connection with Part 2 of Schedule 2 to the Act, the DSAP scheme or this scheme; and
(b) as a result of action taken relying on the false statement, the face value of the payment right exceeds the amount that would have been the face value if the false statement had not been made.

(4) If this subsection applies, the DAA may cancel the number of SDA units in the payment right worked out by:
   (a) dividing the number of whole dollars in the amount of the excess by 32; and
   (b) if the result is more than $1, but is not a whole number of dollars, rounding down the result to the nearest whole number.

(5) In this section:

*false statement* has the same meaning as in clause 50 of Schedule 2 to the Act.

*Note* If an SDA unit is cancelled under this section, Schedule 2 to the Act and this scheme have effect as if the SDA unit had never existed: see subclause 50 (2) of Schedule 2 to the Act.

### 22 Cancellation of SDA units — error

(1) Subsection (2) applies if:
   (a) an error is made in relation to the grant of an SDA payment right (other than an error by the entity who owns the SDA unit or another entity who gave the DAA information about the matter under section 11);
   (b) section 21 does not apply; and
   (c) the payment right would not have been granted if the error had not been made.

(2) If this subsection applies, the DAA may cancel all the SDA units in the payment right.

(3) Subsection (4) applies if:
   (a) an error is made in relation to the grant of an SDA payment right (other than an error by the entity who owns the SDA unit or another entity who gave the DAA information about the matter under section 11);
   (b) section 21 does not apply; and
   (c) as a result of the error, the face value of the payment right exceeds the amount that would have been the amount of the face value if the error had not been made.

(4) If this subsection applies, the DAA may cancel the number of SDA units in the payment right worked out by:
   (a) dividing the number of whole dollars in the amount of the excess by 32; and
   (b) if the result is more than $1, but is not a whole number of dollars, rounding down the result to the nearest whole number.

(5) The DAA must not cancel an SDA unit under this section if:
   (a) 1 or more SDA payments in respect of the SDA unit are made before the DAA becomes aware of the error; and

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(b) the DAA is satisfied that the entity, or each of the entities, that received the payment, or payments, acted in good faith.

Note If an SDA unit is cancelled under this section, Schedule 2 to the Act and this scheme have effect as if the SDA unit had never existed: see subclause 51 (3) of Schedule 2 to the Act.

(6) Subsection (5) does not apply in respect of an SDA unit if each of the following agrees in writing to the cancellation of the unit:
(a) the entity who is the registered owner of the unit;
(b) if a charge is registered in respect of the unit — the entity in whose favour the charge has been granted.

The agreement may be on terms the DAA thinks proper.

23 Variation where SDA unit entitlement less than proper amount

(1) If at any time the DAA becomes aware that the face value of an SDA payment right, as determined under another provision of this scheme, is less than the proper amount:
(a) it may, with or without an application to do so, vary the determination of the face value so that it is the proper amount; and
(b) do whatever is necessary (including amending the register) to give effect to the variation.

(2) A variation takes effect from the day on which it is made or, if another day is specified for that purpose in the notice under section 26 in relation to the variation, that other day.

24 Cancellation of SDA units — breach of undertaking to transfer the SDA units

(1) Subsection (2) applies if:
(a) an entity (the first entity) gives the DAA an undertaking under paragraph 20 (7) (b) to transfer an SDA unit to a primary producer; and
(b) the first entity breaches the undertaking.

(2) If this subsection applies, the DAA may give the first entity a notice directing it to comply with the undertaking before the end of a period of 60 days beginning when the direction is given.

(3) The DAA may cancel the SDA unit if:
(a) the DAA gives a notice under subsection (2) to an entity; and
(b) the entity contravenes the direction.

Note If an SDA unit is cancelled under this section, the cancellation takes effect from the end of the 60 day period: see subclause 52 (2) of Schedule 2 to the Act.

25 Cancellation of SDA units — dairy exit payment becomes payable

(1) Subsection (2) applies if:
(a) an entity has been granted an SDA payment right in relation to a dairy farm enterprise; and
(b) a decision is made:
   (i) under the DEP scheme that the entity is qualified for a dairy exit payment in relation to the enterprise; or
   (ii) under the farm help re-establishment grant scheme (within the meaning of the Farm Household Support Act 1992) that the entity is qualified for a dairy-type grant; and
   (c) immediately before the decision is made, the entity is the registered owner of 1 or more unencumbered SDA units in the payment right.

(2) If this subsection applies, the DAA may cancel the SDA unit or SDA units.

(3) In this section:
   unencumbered SDA unit
   means an SDA unit over which no charge is registered.

Note If an SDA unit is cancelled under this section, the cancellation takes effect from the time when the decision is made under the DEP scheme: see subclause 53 (2) of Schedule 2 to the Act.

26 Notice of decision

(1) If the DAA cancels an SDA unit under section 21, 22, 24 or 25 or varies a determination as mentioned in section 23, the DAA must give the entity who owned the SDA unit a notice:
   (a) setting out the decision (the initial decision), and the reasons for it; and
   (b) stating that:
      (i) the entity may, if dissatisfied with the initial decision, seek its reconsideration by the DAA; and
      (ii) the entity may, if dissatisfied with a reconsidered decision made by the DAA confirming or varying the initial decision, apply to the Review Tribunal for review of the reconsidered decision.

(2) If the DAA:
   (a) cancels an SDA unit under section 22 with the consent of a chargee as mentioned in subsection 22 (6); or
   (b) varies a determination as mentioned in section 23 in respect of an SDA payment right some or all of the SDA units in which are subject to a registered charge;
   it must give a copy of the notice to the chargee at the same time as it gives the notice to the entity.
Part 6  Making payments

27  General
(1) An SDA payment must not be made for a quarter that starts earlier than 1 July 2000.
(2) An SDA payment must not be made for a quarter that is later than the quarter ending on 30 June 2008.

28  Payments
(1) The industry services body must pay, out of the Dairy Structural Adjustment Fund, to the registered owner of each SDA unit, the sum of $1 in respect of:
   (a) the quarter in which the SDA payment right is granted to the entity; and
   (b) each earlier quarter.
(2) The industry services body must pay, out of the Dairy Structural Adjustment Fund, to the registered owner of each SDA unit, the sum of $1 in respect of each quarter after the quarter in which the SDA payment right is granted to the entity.
(3) The DAA and the entity may agree, before the first payment in respect of an SDA unit in an additional market milk payment right or basic market milk payment right is made to the entity, that payment in respect of that unit in respect of quarters that start after the quarter in which the agreement is made (remaining quarters) is to be made by way of lump sum. If the agreement concerns an SDA unit over which a charge is registered, the agreement is of no effect unless the person in whose favour the charge is registered is a party to the agreement.
(4) The amount of the lump sum in respect of an SDA unit in an additional market milk payment right or basic market milk payment right is to be the amount worked out using the formula:
   \[ \text{number of remaining quarters} \times 1\].
(5) Payment to an entity, in accordance with this scheme, of a lump sum is a complete discharge in favour of the industry services body of the entity’s rights to receive a payment in respect of an additional market milk payment right or basic market milk payment right in respect of the remaining quarters.

29  Payment to legal personal representatives
If an individual is entitled to receive an SDA payment and the payment has not been made at the date of the individual’s death, the amount of the payment is payable to the individual’s legal personal representative.
When payment must be made

(1) Subject to this scheme, if an entity is entitled to be paid an amount under subsection 28 (1), the payment must be made as soon as practicable after the end of the reconsideration request period in relation to the grant of the SDA payment right.

(1A) Subsection (1B) applies if:

(a) during the reconsideration request period the DAA receives a request that requires it to reconsider a decision in relation to the grant of the SDA payment right; and

(b) on reconsideration, the DAA or the Minister (as the case may be) confirms the decision or varies it in a way that still involves the grant of an SDA payment right; and

(c) no application is made to the Review Tribunal for review of the decision within 28 days after:

(i) the DAA gives notice of the reconsidered decision to an entity who is affected by the decision; or

(ii) if the DAA or the Minister is taken, under section 36 (7), to have confirmed the decision — the end of 60 days after the DAA received the request to reconsider the decision.

(1B) If this subsection applies, payment must be made as soon as practicable after the end of the 28-day period mentioned in paragraph (1A) (c).

(2) Subsection (3) applies if:

(a) during the reconsideration request period the DAA or the Minister (as the case may be) receives a request that requires the reconsideration of the decision; and

(b) on reconsideration, the decision is confirmed, revoked or varied; and

(c) within 28 days after:

(i) the DAA or the Minister (as the case may be) gives notice of the reconsidered decision to an entity who is affected by the decision; or

(ii) if the DAA or the Minister (as the case may be) is taken, under subsection 36 (5) or (6), to have confirmed the decision:

(A) the end of 60 days after the DAA or the Minister (as the case may be) received the request to reconsider the decision; or

(B) if the period of 60 days was extended under subsection 36 (7) — at the end of the period as so extended after the DAA or the Minister (as the case may be) received the request to reconsider the decision; and

an application has been made to the Review Tribunal for review of the decision; and

(d) either:

(i) on review, the Review Tribunal confirms the decision, varies it in a way that still involves the grant of the payment right or dismisses the application for review (for whatever reason); or

(ii) the applicant withdraws the application for review.
Section 32

(3) If this subsection applies, the payment must be made as soon as practicable after the Review Tribunal confirms or varies the decision or dismisses the application, or the application is withdrawn (whichever is relevant).

(4) Subject to this scheme, if an entity is entitled to be paid an amount under subsection 28 (2) for a quarter, the payment is due before the end of the 10th business day after the first day of the quarter.

(5) Payment of a lump sum must be made as soon as practicable after the agreement mentioned in subsection 28 (3) is made and in any event no later than the end of the quarter next after the agreement is made.

(6) If an SDA payment is due to be paid to an entity, the payment may be recovered, as a debt due to the entity, by action in a court of competent jurisdiction.

31 How payment must be made

An SDA payment to an entity must be paid by electronic funds transfer to an account held by the entity with a bank or other financial institution.

32 Withholding payments at request of entity

(1) This section applies if:
   (a) an SDA payment right has been granted to an entity; and
   (b) the entity has applied for a dairy-type grant.

(2) If this section applies, the entity may ask the DAA, in writing, to withhold further SDA payments that become payable to the entity in respect of the payment right until the application for a dairy-type grant is determined.

(3) If the DAA receives a request under subsection (2), it must withhold SDA payments that become due to the entity after the DAA receives the request until:
   (a) the DAA receives notice that the entity’s application for a dairy-type grant has been rejected; or
   (b) the entity tells the DAA, in writing, that it is no longer pursuing the dairy-type grant; or
   (c) the DAA receives notice that the entity’s claim for the dairy-type grant has been determined; or
   (e) if the notice related to an application for a dairy-type grant and the entity does not lodge a claim for a dairy-type grant before 30 September 2008 – 30 September 2008.

(4) If the entity’s payment right is cancelled under section 25, the entity’s entitlement to the withheld payments is cancelled.

(5) If the entity’s application or claim for a dairy-type grant is rejected, or the entity tells the DAA, in writing, that it is no longer pursuing the grant:
   (a) the SDA payments that have been withheld are due to be paid to the entity before the end of the 10th business day after the DAA receives the notice; and
Section 32

(b) SDA payments that become payable to the entity after the DAA receives the notice are payable in accordance with section 30.

(7) If paragraph (3) (e) applies:

(a) the SDA payments that have been withheld are due to be paid to the entity before the end of the 10th business day after 30 September 2008; and
Part 7  Miscellaneous

### 33 Fees

(1) The following fees are payable under this scheme:

   (a) for registration of a transaction mentioned in subsection 20(2) involving an SDA unit — $50;

   (b) for registration of a discharge of a charge over an SDA unit — $50.

   (c) for inspection of an entry in the register, or issuing a copy of an entry in the register, so far as it relates to an SDA unit (section 20A) — $50.

(2) However, the fee is not payable if the transaction, discharge inspection or issue takes place within 6 months after:

   (a) the payment right containing the SDA unit is granted; and

   (b) the reconsideration request periods and, if applicable, review periods for decisions in relation to the grant of the payment right have expired; and

   (c) all requests for reconsideration of decisions in relation to the grant of the payment right have been dealt with; and

   (d) any review by the Review Tribunal of a decision in relation to the grant of the payment right has been concluded.

(3) The fee mentioned in paragraph (1) (a) is payable by the transferor or entity granting the charge.

(4) The fee mentioned in paragraph (1) (b) is payable by the entity in whose favour the charge was granted.

(5) The fee mentioned in paragraph (1) (c) is payable by the entity inspecting the entry or receiving the copy.

(6) If an entity inspects an entry in the register, and asks for a copy of the same entry at the same time, the fee mentioned in paragraph (1) (c) is payable once only.

### 34 Remission of penalties

If an amount of penalty is payable under clause 49 of Schedule 2 to the Act in relation to this scheme, the DAA may remit the whole or a part of that amount.

### 35 Delegation of powers by Minister

(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to the DAA all or any of his or her powers under this scheme, other than this power of delegation.
Section 36

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this scheme, be taken to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

36 Reconsideration and review of decisions

(1) An entity who is affected by a decision under this scheme in respect of an SDA payment right may, by notice given to the DAA within 28 days after the decision comes to its attention:

(a) ask for a reconsideration of the decision; or

(b) in the case of a decision about an additional market milk payment right or basic market milk payment right — accept the decision, thereby waiving its right to reconsideration of the decision.

(2) For subsection (1), if the DAA sends a notice of decision to an entity by post, the notice is taken to have come to the entity’s attention at the end of 4 business days after the DAA posts it.

(3) A request for a reconsideration of a decision must set out the reasons for making the request.

(4) If the DAA receives a request for a reconsideration of a decision:

(a) if the decision is:

(i) in connection with an additional market milk payment right or a basic market milk payment right; or

(ii) is in connection with a discretionary payment right and was made by the DAA as delegate of the Minister;

the DAA must reconsider each decision to which the request relates as soon as practicable after receiving the request; and

(b) if the decision is in connection with any other discretionary payment right — the DAA must refer the request to the Minister.

(5) When the DAA reconsiders a decision under subsection (4), it must:

(a) confirm the decision; or

(b) revoke the decision; or

(c) vary the decision in whatever way the DAA thinks fit.

(6) The Minister must, in respect of each request referred to him or her under subsection (4), reconsider the decision to which the request relates as soon as practicable after receiving the request and must:

(a) confirm the decision; or

(b) revoke the decision; or

(c) vary the decision in whatever way the Minister thinks fit.

(7) If the DAA or the Minister does not, under subsection (5) or (6), confirm, revoke or vary the decision within 60 days after the day on which the DAA receives the request for a reconsideration of the decision, the DAA or the Minister, as the case may be, is taken to have confirmed the decision at the end of the 60 days.
(8) The entity who made the request for a reconsideration of the decision may agree, before the end of the 60 days, with:
   (a) for a decision to which subsection (5) relates — the DAA;
   (b) for a decision to which subsection (6) relates — the Minister; and
that, for the purposes of subsection (7), the period of 60 days is extended as set out in the agreement.

(9) If a decision is confirmed, revoked or varied under subsection (5) or (6) before the end of the period mentioned in subsection (7) or the end of that period as extended under subsection (8), the DAA must give an entity who is affected by the decision a notice:
   (a) setting out the result of the reconsideration and the reasons for confirming, revoking or varying the decision, as the case may be; and
   (b) stating that the entity may, if dissatisfied with the decision confirmed or varied, apply to the Review Tribunal for review of the decision.

(10) If a decision is confirmed or varied under subsection (5) or (6), an entity who is affected by the decision may apply to the Review Tribunal for review of the decision.

37 Certain things may be done electronically

(1) The provisions of Part 2 of the Electronic Transactions Act 1999 apply as provisions of this scheme and so apply as if the references in that Part to a law of the Commonwealth were references to this scheme.

(2) The DAA may, in approving a form for the purposes of this scheme or otherwise:
   (a) fix requirements as to particular kinds of electronic communication and as to methods of signature or identification; and
   (b) designate information systems.

(3) Subsection (1) does not:
   (a) apply a provision in respect of regulations under the Electronic Transactions Act 1999, a provision with respect to exemptions under that Act or a provision with respect to copyright; or
   (b) apply in relation to a matter specified in a written determination of the DAA.
Note 1

The *Supplementary Dairy Assistance Scheme 2001* (in force under clause 37B of Schedule 2 to the *Dairy Produce Act 1986*) as shown in this compilation is amended as indicated in the Tables below.

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