

Dairy Produce Amendment Regulations 2003 (No. 2) 2003 No. 276

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 276

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

Dairy Produce Amendment Regulations 2003 (No. 2)

Section 52 of the *Dairy Produce Act 1986* (the Act) provides that specified dairy produce may be declared regulated dairy produce and the specified dairy markets may be declared regulated dairy markets in respect of that produce. Section 53 of the Act provides for the prohibition on certain exports of regulated dairy produce to regulated dairy markets and Section 54 of the Act allows for conditions to be set for approval to export regulated dairy produce to regulated dairy markets.

Section 126 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of these regulations is to prescribe that certain dairy products are regulated dairy produce, that the European Union and the United States of America are regulated dairy markets in respect of that regulated dairy produce and to make provisions in relation to the granting of approvals to export regulated dairy produce to those regulated dairy markets.

The European Commission and the United States of America impose quotas to control the access of certain dairy produce imported from Australia at concessional tariff rates. The Quota Administration and Statistics Unit manages the allocation, monitoring and reporting of Australia's country-specific meat and dairy export quotas through the application of regulations and orders. This regulation will ensure, as far as possible, that a common, transparent and equitable process is in place for each of the applicable dairy quotas.

The Regulations provide the authority for the Secretary to impose limitations on the export of dairy produce, to grant, vary or cancel entitlement and/or approval to export regulated dairy produce to regulated dairy markets and identify the rate of the fee to be applied to the approval of entitlement to eligible exporters. The Regulations also define the conditions that apply to approvals for entitlement and to the export of consignments of regulated dairy produce to regulated dairy markets. A detailed explanation of the Regulations is provided in the Attachment.

These regulations commenced on gazettal.

ATTACHMENT

DAIRY PRODUCE AMENDMENT REGULATIONS 2003 (NO. 2)

Details of the proposed regulations are as follows:

Regulation 1 provides for the citation of the regulations.

Regulation 2 provides that the regulations will commence on gazettal.

Regulation 3 provides that Schedule 1 amends the *Dairy Produce Regulations 1986*.

Schedule 1 identifies the amendments to be made.

Amendment [1] provides that new definitions, including of *AQIS*, *Department* and *Secretary*, be inserted.

Amendment [2] provides that wording in subregulation 2(2) be replaced with currently used terminology.

Amendment [3] provides that the existing Part II be replaced by a new Part 2.

Part 2, Division 2.1 provides general conditions relating to the export of regulated dairy produce to regulated dairy markets.

Regulation 2.01 provides for the interpretation of terminology used in Part 2.

Regulation 2.02 provides that the object of Part 2 is to establish a system of export controls for the export of regulated dairy produce to regulated dairy markets.

Regulation 2.03 provides that on or after 1 January 2004 dairy produce described in Schedule 1A is declared regulated dairy produce.

Regulation 2.04 provides that on or after 1 January 2004 the European Union and the United States of America are declared regulated dairy markets in respect of regulated dairy produce mentioned in Regulation 2.03.

Part 2, Division 2.2 provides conditions relating to the export of regulated dairy produce to the European regulated dairy market.

Regulation 2.05 provides that Division 2.2 applies for 2004 and later years.

Regulation 2.06 provides definitions for terminology used in Division 2.2.

Regulation 2.07 provides for the conditions to be met when an exporter applies for approval to export a consignment of regulated dairy produce to the European regulated dairy market.

Regulation 2.08 provides that the Secretary must approve the export of a valid consignment where certain conditions apply and must provide a written notice of that approval to the exporter.

Regulation 2.09 provides the conditions that apply to an approval to export regulated dairy produce and includes a note to confirm that it will be an offence under the *Dairy Produce Act 1986* if the export is not in accordance with the conditions of the approval.

Regulation 2.10 provides details of the period for which an approval to export remains valid.

Regulation 2.11 provides that an application for entitlement to export must be provided or be taken to be provided to the Secretary.

Regulation 2.12 provides that the Secretary may approve the allocation to an exporter of an entitlement to export regulated dairy produce to the European regulated dairy market and what the Secretary must do if an allocation of entitlement is made. The regulation also provides that the Secretary must take into account the Guidelines for exports to the EU, that have been jointly agreed by the Department and by the dairy industry. The regulation also provides that the

Secretary is not required to approve the allocation of entitlement to an exporter if he considers it would not be in the best interests of the dairy industry to make that allocation.

the avenue of appeal if the exporter is dissatisfied with the Secretary's decision.

Regulation 2.14 provides for the conditions relating to payment by exporters of a fee under the regulations and sets the fee rate, which will be 0.3 cents per kilogram of quota entitlement allocated to the exporter in the entitlement year.

Regulation 2.15 provides the conditions of entitlement to export regulated dairy produce to the European regulated market, including that exports should not exceed the entitlement and the requirement to report significant changes to an exporter's circumstances.

Regulation 2.16 specifies the period the entitlement remains valid and describes the circumstances whereby entitlement may be withdrawn and re-allocated.

Regulation 2.17 provides for the transfer of entitlement and what the Secretary must do if an entitlement transfer is implemented between two exporters.

Part 2, Division 2.3 provides conditions relating to the export of regulated dairy produce to the United States of America regulated dairy market.

Regulation 2.18 provides that Division 2.3 applies for 2004 and later years.

Regulation 2.19 provides definitions for terminology used in Division 2.3.

Regulation 2.20 provides for the conditions to be met when an exporter applies for approval to export a consignment of regulated dairy produce to the United States of America regulated dairy market.

Regulation 2.21 provides that the Secretary must approve the export of a valid consignment and must provide a written notice of that approval to the exporter.

Regulation 2.22 provides the conditions that apply to an approval to export regulated dairy produce and includes a note to confirm that it will be an offence under the *Dairy Produce Act 1986* if the export is not in accordance with the conditions of the approval.

Regulation 2.23 provides details of the period for which an approval to export remains valid.

Regulation 2.24 provides that an application for entitlement to export must be provided or be taken to be provided to the Secretary.

Regulation 2.25 provides that the Secretary may approve the allocation to an exporter of an entitlement to export regulated dairy produce to the United States of America regulated dairy market and what the Secretary must do if an allocation of entitlement is made. The regulation also provides that the Secretary must take into account the Guidelines for exports to the USA, that have been jointly agreed by the Department and by the dairy industry. The regulation also provides that the Secretary is not required to approve the allocation of entitlement to an exporter if he considers it would not be in the best interests of the dairy industry to make that allocation.

the avenue of appeal if the exporter is dissatisfied with the Secretary's decision.

Regulation 2.27 provides for the conditions relating to payment by exporters of a fee under the regulations and sets the fee rate, which will be 0.3 cents per kilogram of quota entitlement allocated to the exporter in the entitlement year.

Regulation 2.28 provides the conditions of entitlement to export regulated dairy produce to the United States of America regulated market, including that exports should not exceed the entitlement and the requirement to report significant changes to an exporter's circumstances.

Regulation 2.29 specifies the period the entitlement remains valid and describes the circumstances whereby entitlement may be withdrawn and re-allocated.

Regulation 2.30 provides for the transfer of entitlement and what the Secretary must do if an entitlement transfer is implemented between two exporters.

Part 2, Division 2.4 provides miscellaneous conditions relating to the export of regulated dairy produce to regulated dairy markets.

Regulation 2.31 provides that the Secretary may vary or revoke an approval or entitlement to export and what the Secretary must do if an approval or entitlement or the conditions relating to these is varied or cancelled.

Regulation 2.32 provides that exporters may seek a review from the Administrative Appeals Tribunal of decisions relating to the grant of approval to export, the allocation of entitlement or the variation or revocation of an approval or entitlement.

Regulation 2.33 provides the address to send applications and information in writing under Part 2 of the Regulations.

Regulation 2.34 provides that the Secretary may delegate his powers under Part 2, except the power to delegate, to an SES employee of the Department

Amendment [3] provides that Regulation 10 be omitted.

Amendment [4] provides that Part IV be omitted.

Amendment [5] provides that before Schedule 1, insert Schedule 1A.

Schedule 1A Part 1 provides the definitions used in Schedule 1A.

Schedule 1A Part 2 provides the definition of dairy produce to be declared as regulated dairy produce for the European Union.

Schedule 1A Part 3 provides the definition of dairy produce to be declared as regulated dairy produce for the United States of America.

Amendments [6] to [9] provide for the update of the form for appointing an authorised agent under Regulation 8 and reflect corrections to the name of the Department, Regulations and references in the form to dates that are no longer applicable.

Amendment [6] provides that for Schedule 1, omit DAIRY PRODUCE REGULATIONS and insert DAIRY PRODUCE REGULATIONS 1986.

Amendment [7] provides that for Schedule 1, omit Department of Primary Industry, and insert Department of Agriculture, Fisheries and Forestry.

Amendment [8] provides that for Schedule 1, omit Dairy Produce Regulations and insert *Dairy Produce Regulations 1986*.

Amendment [9] provides that for Schedule 1, 19 be omitted. This amendment removes the prefix `19' from the date that was provided in the current form for appointing an authorised agent.

Amendment [9] provides that for Schedule 1, 19 be omitted. This amendment removes the prefix `19' from the date that was provided in the current form for appointing an authorised agent.