

Queensland



Dairy Industry Act 1993

DAIRY INDUSTRY REGULATION 1993

**Reprinted as in force on 5 September 1997
(includes amendments up to SL No. 254 of 1997)**

Reprint No. 2B

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Information about this reprint

This regulation is reprinted as at 5 September 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



DAIRY INDUSTRY REGULATION 1993

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DAIRY INDUSTRY REGULATION 1993

[as amended by all amendments that commenced on or before 5 September 1997]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Dairy Industry Regulation 1993*.

Definitions

2. In this regulation—

“Food Standards Code” means the Food Standards Code adopted under the *Food Standards (Adoption of Food Standards Code and General) Regulation 1987*.

“high fat”, in relation to milk, means that the milk has a milk fat content of not less than 45 g/kg.

“liquid milk products with vegetable oil” means milk to which vegetable oil has been added so that the product has a vegetable fat content of not more than 35 g/kg.

“low fat”, in relation to milk, means that the milk has a milk fat content of not more than 10 g/kg.

“modified milk” means a liquid mixture of 2 or more of the following—

- (a) milk;
- (b) concentrated milk;
- (c) dried full cream milk;
- (d) skim milk;
- (e) concentrated skim milk;
- (f) dried skim milk;
- (g) cream;

- (h) buttermilk;
- (i) dried buttermilk;
- (j) milk fat;
- (k) water.

“nonparticipating vendor” means a vendor who did not participate in the restructuring scheme.

“pasteurised” means treated—

- (a) by heating to a temperature of at least 72°C, keeping at or above that temperature for not less than 15 seconds and immediately shock cooling to a temperature below 4.5°C; or
- (b) by any other process involving heating and shock cooling that has an equal or greater lethal effect on bacteria.

“reduced fat”, in relation to milk, means that the milk has a milk fat content of not more than 20 g/kg and not less than 10 g/kg.

“reduced lactose”, in relation to milk, means that the milk has not more than $\frac{1}{5}$ the normal lactose content of milk.

“restructuring scheme” means the scheme for restructuring the distribution of dairy produce by the holders of vendors’ licences under section 47 of the Act.

“skim milk” means milk that has a milk fat content of not more than 1.5 g/kg.

“small commercial consumer” of dairy produce means a business that—

- (a) buys not more than 80 L of pasteurised milk per week; and
- (b) does not regularly sell milk in the form in which it is purchased to genuine retail sale customers.

Example of a small commercial consumer—

A club that buys less than 80 L of milk per week and occasionally sells some of the milk to its members in the form in which it is purchased.

“supermarket” see section 3A.

“ultra heat treated” (UHT) means treated by heating to a temperature of not less than 132°C for not less than 1 second and packaging in

hermetically sealed packages approved under the Food Standards Code.

Meaning of “milk” (s 3 of the Act)

3. For the purposes of the definition “milk” in section 3 of the Act, goats are prescribed animals.

Meaning of “supermarket”

3A.(1) “Supermarket” means—

- (a) a retail business operating under any of the following names (a **“nominated business name”**)—
 - (i) Bi-lo;
 - (ii) Coles;
 - (iii) Coles Fossey;
 - (iv) Food-for-less;
 - (v) Franklins;
 - (vi) Hypermarket;
 - (vii) K-Mart;
 - (viii) Woolworths; or
- (b) a similar business classified as a supermarket by the Authority.

(2) However, **“supermarket”** does not include a retail business operating under a nominated business name if during the relevant operating period, the business operated only under a business name other than a nominated business name.

(3) In this section—

“nominated business name” includes a derivative of the name.

“relevant operating period” for a retail business means the period from and including 4 August 1993 to and including the day before the day the business started operating under a nominated business name.

Example of a derivative of a nominated business name—

Coles New World

Franklins Fresh.

Classification of certain products as “dairy produce” and “market milk” (s 3 of the Act)

4.(1) The following products are classified as forms of dairy produce—

- (a) any liquid product produced by—
 - (i) adding flavouring, vegetable oils, vitamins, minerals or other nutrients to milk; or
 - (ii) reducing the liquid, fat or lactose content of milk; or
 - (iii) subjecting milk to pasteurisation or ultra heat treatment; or
 - (iv) any combination of 2 or more of the processes mentioned in subparagraphs (i) to (iii);
- (b) cream and thickened cream;
- (c) butter, ghee (clarified butter), butter concentrate, dairy blend, buttermilk, concentrated buttermilk and anhydrous milk fat (butter oil);
- (d) cheese, casein and caseinate;
- (e) whey, whey cream and concentrated whey cream;
- (f) yoghurt and cultured milk;
- (g) ice-cream and ice-cream mix;
- (h) powdered milk, skim milk powder, buttermilk powder, whey powder and milk sugar.

(2) The following products are classified as forms of dairy produce and also as market milk—

- (a) skim milk, reduced fat milk and low fat milk;
- (b) reduced lactose milk and low lactose milk;
- (c) modified milk (including reduced fat modified milk, low fat modified milk, reduced lactose modified milk and low lactose

- modified milk);
- (d) pasteurised milk (including homogenised pasteurised milk);
 - (e) standardised milk;
 - (f) UHT milk (including UHT modified milk, UHT reduced fat modified milk, UHT low fat modified milk, UHT reduced lactose modified milk and UHT low lactose modified milk);
 - (g) liquid milk products with vegetable oil (including UHT liquid milk products with vegetable oil);
 - (h) any of the products mentioned in paragraphs (a) to (g), or any combination of 2 or more of the products mentioned in the paragraphs, with the addition of flavouring.

(3) However, milk is not market milk if it is used or intended for use for the manufacture of—

- (a) butter; or
- (b) cheese; or
- (c) concentrated milk; or
- (d) condensed milk; or
- (e) evaporated milk; or
- (f) skim milk powder; or
- (g) whole milk powder; or
- (h) yoghurt; or
- (i) casein.

Classification of certain products as pasteurised milk and cream (s 3 of the Act)

5.(1) The following products are classified as pasteurised milk—

- (a) skim milk, reduced fat milk and low fat milk;
- (b) reduced lactose milk and low lactose milk;
- (c) modified milk (including reduced fat modified milk, low fat modified milk, reduced lactose modified milk and low lactose

modified milk);

(d) liquid milk products with vegetable oil.

(2) A pasteurised liquid product produced by subjecting whole milk to a process of separation, and containing not less than 350 g/kg milk fat, is classified as pasteurised cream.

PART 2—CLASSIFICATION OF LICENCES

Producers' licences (s 38(1)(a) and (2) of the Act)

6.(1) Producers' licences are to be of the following classes—

- Class A
- Class B
- Class C
- Class D.

(2) A “**Class A**” producer's licence authorises the sale of unpasteurised bovine milk from the dairy specified in the licence to the processor specified in the licence.

(3) A “**Class B**” producer's licence authorises the sale of unpasteurised bovine milk from the dairy specified in the licence without specifying a processor to which the milk is to be sold.

(4) A “**Class C**” producer's licence authorises the sale of unpasteurised goat's milk from the dairy specified in the licence to the processor specified in the licence.

(5) A “**Class D**” producer's licence authorises the sale of unpasteurised goat's milk from the dairy specified in the licence without specifying a processor to which the milk is to be sold.

Processors' licences (s 38(1)(b) and (2) of the Act)

7.(1) Processors' licences are to be of the following classes—

- Class A (Pasteurisation)
- Class B (Receival depot)
- Class C (Distribution depot)
- Class D (Producers' cooperative)

(2) A “**Class A (Pasteurisation)**” processor’s licence authorises—

- (a) the treatment of milk received from producers or processors specified in the licence for supply as market milk; and
- (b) the sale of milk to specified processors and to vendors;

at or from factory premises specified in the licence.

(3) A “**Class B (Receival depot)**” processor’s licence authorises—

- (a) the receipt, testing, grading, chilling and storage of milk sold, as market milk, by producers and processors specified in the licence; and
- (b) the sale of milk, as market milk, to processors specified in the licence;

at or from a depot specified in the licence.

(4) A “**Class C (Distribution depot)**” processor’s licence authorises—

- (a) the refrigeration and storage of market milk; and
- (b) the sale of market milk to the holders of vendors’ licences;

at or from a depot specified in the licence.

(5) A “**Class D (Producers’ cooperative)**” processor’s licence authorises the sale of milk produced by members of a producers’ cooperative to processors specified in the licence.

Carriers’ licences (s 38(1)(c) and (2) of the Act)

8.(1) Carriers’ licences are to be of the following classes—

- Class A
- Class B
- Class C.

(2) A **“Class A”** carrier’s licence authorises the carriage of milk from a producer to a processor.

(3) A **“Class B”** carrier’s licence authorises the carriage of milk from a processor to another processor.

(4) A **“Class C”** carrier’s licence authorises the carriage of dairy produce that has been processed for sale from a processor to a distribution depot.

Vendors’ licences (s 38(1)(d) and (2) of the Act)

9.(1) Vendors’ licences are to be of the following classes—

- Class A
- Class B
- Class C
- Class D
- Class E
- Class F.

(2) A **“Class A”** vendor’s licence is the licence issued for a Category A milk run.

(3) A **“Class B”** vendor’s licence is the licence issued for a Category B milk run.

(4) A **“Class C”** vendor’s licence is the licence issued for a Category C milk run.

(5) A **“Class D”** vendor’s licence is the licence issued for a Category D milk run.

(6) A **“Class E”** vendor’s licence is the licence issued to a nonparticipating vendor (other than a nonparticipating vendor authorised to sell only unpasteurised milk and unpasteurised cream).

(7) A **“Class F”** vendor’s licence is the licence issued to a nonparticipating vendor authorised to sell only unpasteurised milk and unpasteurised cream.

(8) For the purposes of this section—

- (a) a **“Category A milk run”** is a milk run consisting of a list of

supermarkets to which the vendor who holds a vendor's licence for the milk run is authorised to sell dairy produce; and

- (b) a **“Category B milk run”** is a milk run consisting of a list of businesses (other than supermarkets) to which the vendor who holds a vendor's licence for the milk run is authorised to sell dairy produce; and
- (c) a **“Category C milk run”** is a milk run consisting of either or both of—
 - (i) a list of streets, or a residential area defined in some other way, in which the vendor who holds a vendor's licence for the milk run is authorised to sell dairy produce; or
 - (ii) a list of businesses that are small commercial consumers of dairy produce to which the vendor who holds a vendor's licence for the milk run is authorised to sell dairy produce; and
- (d) a **“Category D milk run”** is a milk run consisting of a combination of the categories mentioned in paragraphs (a) to (c) or any 2 or more of the categories.

Laboratory licences (s 38(1)(e) of the Act)

10.(1) A laboratory licence authorises the holder of the licence to carry out examinations, tests and analyses of a kind specified in the licence at laboratory premises specified in the licence.

(2) A person must not carry on the business of examining, testing or analysing dairy produce unless authorised to carry on the business by a laboratory licence.

Maximum penalty for subsection (2)—40 penalty units.

PART 3—SUPPLY MANAGEMENT

Supply management region (s 48 of the Act)

11. For section 48¹ of the Act, the following parts of the State form the south east Queensland supply management region—

- (a) the shires of Beaudesert, Bendemere, Boonah, Booringa, Bungil, Caboolture, Cambooya, Chinchilla, Clifton, Cooloola, Crows Nest, Esk, Gatton, Gayndah, Inglewood, Jondaryan, Kilcoy, Kilkivan, Kingaroy, Laidley, Maroochy, Millmerran, Mundubbera, Murgon, Murilla, Nanango, Noosa, Pine Rivers, Pittsworth, Redland, Rosalie, Stanthorpe, Tara, Taroom, Tiaro, Waggamba, Wambo, Warwick, Warroo, Wondai and Woocoo;
- (b) the towns of Dalby, Goondiwindi and Roma;
- (c) the cities of Brisbane, Caloundra, Gold Coast, Hervey Bay, Ipswich, Logan, Maryborough, Redcliffe and Toowoomba.

Transactions affecting entitlements (s 50 of the Act)

12.(1) The holder of a market milk entitlement may transfer, deal with or dispose of a market milk entitlement, or an interest in a market milk entitlement, on condition that the person who acquires an interest in the entitlement because of the transaction is—

- (a) a person who holds some other market milk entitlement; or
- (b) a person who is, or is to be, the registered proprietor of the land specified in the entitlement; or
- (c) a person who is entitled, or is to become entitled, to use the land to which the entitlement relates for the production of milk; or
- (d) a person who is to hold the interest acquired because of the transaction by way of security; or
- (e) a person approved by the Authority for the purposes of this section.

¹ Section 48 of the Act (Application of this division)

(2) If the holder of a market milk entitlement enters into a transaction to transfer the entitlement, or an interest in an entitlement, to another person, each party to the transaction must, within 14 days after entering into the transaction, give notice of the transaction to the Authority in a form approved by the Authority.

Maximum penalty—40 penalty units.

(3) Within 14 days after receiving the notice, the Authority must send a copy of the notice to the processor specified in the entitlement and any other processor affected by the transaction.

Reimbursement of transport costs under supply management schemes (s 52 of the Act)

13.(1) A processor who claims to be entitled to be reimbursed for the costs of transporting market milk to another processor under a supply management scheme must provide the Authority with full details of the basis on which the claim is made and provide any further relevant information that the Authority may require.

(2) A processor is entitled to reimbursement on the following basis—

- (a) for the transportation of milk from Nambour to Brisbane—0.957c/L;
- (b) for the transportation of milk from Beaudesert to Brisbane—0.677c/L;
- (c) for the transportation of milk from Booval to Brisbane—0.520c/L;
- (d) for the transportation of milk from Caboolture to Brisbane—0.590c/L;
- (e) for the transportation of milk from Gympie to Brisbane—1.460c/L;
- (f) for the transportation of milk from Toowoomba to Brisbane—1.310c/L;
- (g) for the transportation of milk from Labrador to Brisbane—1.200c/L;
- (h) for the transportation of milk from Warwick to

Brisbane—1.750c/L.

(3) The reimbursement is to be made out of income derived by the Authority from processors because of the condition of a price fixing order under section 28(5)(b) of the Act requiring the payment of money for the purpose.

Annual review of market milk consumption (s 53(2)(b) of the Act)

14. The prescribed percentage for the purposes of section 53(2)(b) of the Act is 120%.

PART 4—MISCELLANEOUS

Prescribed diseases (s 65 of the Act)

15. The following are prescribed diseases for the purposes of section 65 of the Act—

- (a) a disease declared to be a communicable disease under section 32 of the *Health Act 1937*;
- (b) a communicable skin infection;
- (c) an open infected sore;
- (d) an eruption, ulceration or discharging wound of the skin of the face, hands or arms.

Returns (s 114(2)(c) of the Act)

16.(1) The holder of a processor's licence must give to the Authority a return, for each month, that sets out—

- (a) the quantity of milk processed for sale in the month; and
- (b) the quantity of market milk sold by the processor in the month; and
- (c) the kinds of dairy produce (apart from market milk)

manufactured by the processor in the month and, for each kind of manufactured dairy produce—

- (i) the quantity manufactured in the month; and
- (ii) the quantity sold in the month.

(2) The return must be—

- (a) in the form approved by the Authority; and
- (b) given to the Authority within 5 business days after the end of the month.

(3) The return may be given by telex or facsimile.

(4) The holder of a processor's licence must not, without reasonable excuse, fail to give a return as required by this section.

Maximum penalty for subsection (4)—40 penalty units.

Charges relating to condemned dairy produce (s 114(2)(d) of the Act)

17.(1) If dairy produce is condemned and disposed of under section 64 of the Act, the Authority may impose a charge on the owner of the dairy produce sufficient to cover the Authority's costs for the condemnation, analysis (if applicable) and disposal of the dairy produce.

(2) The charge is imposed by giving the owner of the dairy produce an account setting out the amount of the charge.

(3) The Authority may recover the charge as a debt.

Charge on appeal (s 114(2)(d) of the Act)

18.(1) A person must pay a charge of \$250 on lodging an appeal with the Tribunal.

(2) The charge is to be paid to the Authority and applied by it towards the costs associated with the establishment and operation of the Tribunal.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 September 1997. Future amendments of the Dairy Industry Regulation 1993 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	20 December 1993
2	to SL No. 38 of 1994	21 July 1994
2A	to SL No. 259 of 1995	29 July 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Dairy Industry Regulation 1993 SL No. 282

made by the Governor in Council on 29 July 1993

notfd gaz 30 July 1993 pp 1594–6

commenced on date of notification

exp 29 July 2003 (see SIA s 54)

as amended by—

Dairy Industry Amendment Regulation (No. 1) 1994 SL No. 38

notfd gaz 11 February 1994 pp 436–9

commenced on date of notification

Dairy Industry Amendment Regulation (No. 1) 1995 SL No. 259

notfd gaz 15 September 1995 pp 317–18

commenced on date of notification

Dairy Industry Legislation Amendment Regulation (No. 1) 1997 SL No. 254 pts 1–2

notfd gaz 15 August 1997 pp 1830–31

commenced on date of notification

7 List of annotations

Definitions

- s 2** def “**small commercial consumer**” amd 1997 SL No. 254 s 3
def “**supermarket**” sub 1995 SL No. 259 s 3

Meaning of “supermarket”

- s 3A** ins 1995 SL No. 259 s 3

Supply management region (s 48 of the Act)

- s 11** sub 1997 SL No. 254 s 4

Transfer day (s 115 of the Act)

- s 19** ins 1994 SL No. 38 s 3
exp 11 February 1994 (see s 19(2))