

DAIRY INDUSTRY BILL

Amendments agreed to in Committee of the Whole
on 22 June 2000.

Oppn No. 1 Page 8, Part 4. Insert after line 2:

Division 1 Compensation generally

Oppn No. 2 Page 8, clause 14, line 5. Insert “, except as provided by Division 2” after “Crown”.

Oppn No. 3 Page 8, clause 14, line 19. Insert “, except as provided by Division 2” after “Crown”.

Oppn No. 4 Page 9, Part 4. Insert after line 6:

Division 2 Dairy Farmers and Dairy Co-operatives Restructure Scheme

15 Definitions

In this Division:

Committee means the Milk Quota Committee constituted under this Division.

dairy farmer means the occupier of premises used for or in connection with the stalling, grazing, feeding or milking of cattle for the purpose of producing milk that is supplied or to be supplied for profit or sale.

milk quota means a quota held by a dairy farmer under a scheme in force under section 9 (1) (g) of the *Dairy Industry Act 1979* immediately before 1 July 2000.

the Scheme means the Dairy Farmers and Dairy Co-operatives Restructure Scheme constituted under this Division.

16 Milk Quota Committee

- (1) There is constituted by this Act a body corporate with the corporate name of the Milk Quota Committee.
- (2) The Committee is dissolved on 1 July 2003. On dissolution of the Committee:
 - (a) a person who, immediately before the dissolution held office as a member, ceases to hold office as a member, and
 - (b) the person is not entitled to any remuneration or compensation because of the loss of that office.

17 Members of Committee

- (1) The Committee is to consist of 6 members appointed by the Minister, one of whom is to be appointed by the Minister as the Chairperson of the Committee.
- (2) Of the members:
 - (a) one is to be a person nominated by the NSW Dairy Farmers' Association to represent Far-North Coast dairy farmers, and
 - (b) one is to be a person nominated by the NSW Dairy Farmers' Association to represent Mid-North Coast dairy farmers, and
 - (c) one is to be a person nominated by the NSW Dairy Farmers' Association to represent South Coast dairy farmers, and
 - (d) one is to be a person nominated by the NSW Dairy Farmers' Association to represent inland dairy farmers.
- (3) If the NSW Dairy Farmers' Association ceases to exist, the members referred to in subsection (2) are to be nominated by an organisation appointed by the Minister. The Minister must appoint an organisation that, in the Minister's opinion, is the principal organisation representing New South Wales dairy farmers.

- (4) Schedule 1 has effect with respect to the constitution and procedure of the Committee.

18 Functions of Committee

The Committee has the following functions:

- (a) to administer the Dairy Farmers and Dairy Co-operatives Restructure Scheme established under this Division,
- (b) such other functions as are conferred or imposed on the Committee by or under this or any other Act.

19 Staff of Committee

The Committee may arrange for the use of the services of any staff or facilities of Safe Food, a government department or a public or local authority.

20 Dairy Farmers and Dairy Co-operatives Restructure Scheme

- (1) There is established a Scheme called the Dairy Farmers and Dairy Co-operatives Restructure Scheme under which the Committee is to arrange for payments to be made to claimants who are eligible for financial assistance under the Scheme.
- (2) A person is eligible for financial assistance under the Scheme if the person was the holder of a milk quota in force immediately before 1 June 2000 and had not ceased to be a holder of a quota immediately before 1 July 2000 and satisfies any other criteria for eligibility prescribed by the regulations.
- (3) A dairy co-operative is eligible for financial assistance under the Scheme if the co-operative operated as a dairy co-operative immediately before 1 July 2000, incurs expenditure arising as a result of deregulation of the dairy industry on and from 1 July 2000 and satisfies any other criteria for eligibility prescribed by the regulations.
- (4) A payment may be made to an eligible person or dairy co-operative only if the person or co-operative has made a claim in accordance with this Act and the other provisions of this Act regarding payment have been satisfied.
- (5) It does not matter that an eligible person or dairy co-operative is receiving a subsidy or other benefit under Commonwealth legislation in respect of the deregulation of the dairy industry.

21 Claims

- (1) A claim under the Scheme may be made by any person who or dairy co-operative that is eligible for financial assistance under the Scheme.
- (2) A claim is to be made in the manner and form approved by the Committee.
- (3) The Committee may, in writing, request a claimant to provide additional information in relation to a claim and may, if that information is not provided within a reasonable time after the Committee's request, refuse the claim.
- (4) The Committee may determine a date, being not earlier than 1 July 2002, by which all claims for payment under the Scheme must be made. The Committee must give notice of any date determined under this subsection by publishing it in a newspaper circulating generally throughout New South Wales.

22 Determination of claims

- (1) The Committee is to determine a claim made to it by refusing or allowing the claim. In allowing the claim the Committee is to determine the amount of the payment to which a claimant is entitled.
- (2) The Committee may refuse a claim:
 - (a) if in its opinion, the claimant is not eligible for financial assistance under the Scheme, or
 - (b) if there is insufficient documentary or other evidence to support the claim, or
 - (c) if a person other than the claimant is, in the opinion of the

Committee, eligible for payment in respect of the milk quota concerned.

- (3) The Committee must give a claimant written notice of its determination of the claim and, in the case of a refusal, must set out the reasons for its refusal.

23 Review of Committee determinations

- (1) A claimant that is dissatisfied with a determination of the Committee may request the Committee to review its determination.
- (2) The Committee must review a determination if requested to do so not later than 21 days after notice of the determination was given.
- (3) A review is to be carried out by reconsideration of the evidence on which the determination was based.
- (4) If the Committee considers it necessary to do so following reconsideration of the evidence, it may conduct a hearing into any determination it is requested to review.
- (5) New evidence (including fresh evidence) in addition to or in substitution for the evidence considered by the Committee on its review may be given at a hearing.
- (6) A claimant may appear personally at a hearing or may be represented by a legal practitioner or, with the leave of the Committee, by any other person.
- (7) The Committee is to give written notice of its decision on review to the claimant and the Minister.

24 Procedure at hearings

- (1) In proceedings before it, the Committee is not bound to observe the rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.
- (2) Unless the Committee otherwise directs, a hearing is to be held in the absence of the public.

25 Power to summon witnesses and take evidence

- (1) A member of the Committee may summon a person to appear at a hearing to give evidence and to produce such documents (if any) as are referred to in the summons.
- (2) The member of the Committee presiding at a hearing may require a person appearing at the hearing to produce a document.
- (3) The Committee may, at a hearing, take evidence on oath or affirmation and, for that purpose:
 - (a) a member may require a person appearing at the hearing to give evidence, to take an oath or to make an affirmation in a form approved by the member presiding at the hearing, and
 - (b) a member may administer an oath or affirmation to a person so appearing.
- (4) A person served with a summons to appear at a hearing to give evidence must not, without reasonable excuse:
 - (a) fail to attend as required by the summons, or
 - (b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Committee.Maximum penalty: 20 penalty units.
- (5) A person appearing at a hearing to give evidence must not, without reasonable excuse:
 - (a) when required to take an oath or make an affirmation, refuse or fail to comply with the requirement, or
 - (b) refuse or fail to answer a question that the person is required to answer by the member of the Committee presiding at the hearing, or
 - (c) refuse or fail to produce a document that the person is required to produce by a summons served under this section.

Maximum penalty: 20 penalty units.

26 Power to obtain documents

- (1) A member of the Committee may, by notice in writing served on a person, require the person:
 - (a) to attend, at a time and place specified in the notice, before a person specified in the notice, being a member of the Committee or a person authorised by the Committee in that behalf, and
 - (b) to produce, at that time and place, to the person so specified a document specified in the notice.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a notice served on the person under this section.
Maximum penalty: 20 penalty units.

27 Appeals on questions of law

- (1) A claimant who is or has been a party to a hearing may, in accordance with rules of court, appeal to the Supreme Court against any decision of the Committee on a question of law.
- (2) On the hearing of an appeal under this section, the Supreme Court may:
 - (a) by order remit the matter to the Committee for determination by the Committee in accordance with the decision of the Supreme Court, or
 - (b) make such other order in relation to the appeal as it thinks fit.
- (3) Any appeal against a decision of the Committee must be made within 21 days after the date on which notice of the decision was given.

28 No appeals

A determination of the Committee is not liable to be challenged, appealed against, reviewed, quashed or called into question by any court or tribunal or administrative body.

29 Payments

- (1) The Committee may determine and, with the approval of the Minister, may arrange for payments to be made under the Scheme.
- (2) Payments under the Scheme are to be made out of money to be provided by Parliament or that is otherwise legally available.
- (3) Without limiting subsection (1), the rate of payments under the Scheme for the former holder of a milk quota is to be calculated on the basis of an amount, determined by the Committee, of cents per litre of milk that was subject to the milk quota immediately before 1 June 2000.

- (4) Payments under the Scheme may be made progressively as each claim is determined or only after all claims have been determined.

30 Personal liability

No matter or thing done or omitted to be done by the Committee, a member of the Committee or any person acting under the direction of the Committee, is, if the matter or thing is done or omitted to be done in good faith for the purposes of executing this Division, to subject the member or person so acting personally to any action, liability, claim or demand.

Oppn No 5. Page 12, clause 25, line 25. Omit “Schedule 1”. Insert instead “Schedule 2”.

Oppn No. 6 Page 12, clause 26, line 28. Omit “Schedule 2”. Insert instead “Schedule 3”.

Oppn No. 7 Page 13. Insert before line 1:

Schedule 1 Provisions relating to members and procedure of Milk Quota Committee

(Section 17 (3))

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Committee.

member means any member of the Committee.

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 3 years) as is specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

(1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.

(2) In the absence of a member, the member’s deputy may, if available, act in the place of the member.

(3) While acting in the place of a member, a person:

(a) has all the functions of the member and is taken to be a member, and

(b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

5 Vacancy in office of member

(1) The office of a member becomes vacant if the member:

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by instrument in writing addressed to the Minister, or

(d) is removed from office by the Minister under this clause, or

(e) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member

- is excused by the Minister for having been absent from those meetings, or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may at any time remove a member from office.

6 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Chairperson

- (1) In the absence of the Chairperson, the deputy of the Chairperson may, if available, act in the place of the Chairperson.
- (2) While acting in the place of the Chairperson, the deputy of the Chairperson has all the functions of the Chairperson and is taken to be the Chairperson.
- (3) The Chairperson vacates office as Chairperson if the person:
 - (a) is removed from office by the Minister under this clause, or
 - (b) ceases to be a member.
- (4) The Minister may at any time remove the Chairperson from office as Chairperson.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Committee, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.
- (2) A disclosure by a member at a meeting of the Committee that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Committee.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Committee otherwise determines:
 - (a) be present during any deliberation of the Committee with respect to the matter, or
 - (b) take part in any decision of the Committee with respect to the matter.

- (5) For the purposes of the making of a determination by the Committee under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Committee for the purpose of making the determination, or
 - (b) take part in the making by the Committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Committee.

9 Effect of other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

10 General procedure

The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Committee.

11 Quorum

The quorum for a meeting of the Committee is a majority of its members, of whom one must be the Chairperson or Deputy Chairperson.

12 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Committee.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

14 First meeting

The Minister may call the first meeting of the Committee in such manner as the Minister thinks fit.