

Dairy Industry Restructuring Amendment Act 2007

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115A Application of section 115(1) to assurances in respect of export licences issued under Dairy Industry Restructuring Act 2001 19

Schedule 19
New Schedules 5A, 5B, 5C, and 5D inserted

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Dairy Industry Restructuring Amendment Act 2007.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to Dairy Industry Restructuring Act 2001

- 3 Principal Act amended**
This Part amends the Dairy Industry Restructuring Act 2001.
- 4 Interpretation**
 - (1) Section 5(1) is amended by inserting the following definitions in their appropriate alphabetical order:
 - “**allocation period** means the quota year or years for which export licences are allocated in accordance with section 26
 - “**competent authority** means the department of State that is for the time being responsible for the administration of the Animal Products Act 1999
 - “**eligible participant** means a person who—
 - “(a) is eligible to hold an export licence; and
 - “(b) collects at least 0.1% of total milk solids collected from farmers in New Zealand based on the most representative data of total milk solids collected in New Zealand in the latest year that data is available prior to an allocation period

“**general export licence** means an export licence allocated under section 26(5)

“**holder**, in respect of an export licence, means the person recorded in the register of export licence holders kept under section 29B

“**interim licence** means, in respect of exports to designated markets in—

“(a) Canada, the licence for the period beginning on the commencement of the Dairy Industry Restructuring Amendment Act 2007 and ending on 31 December 2007 for a quantity of butter not exceeding 2 000 tonnes; and

“(b) the Dominican Republic, a licence for the period beginning on the commencement of the Dairy Industry Restructuring Amendment Act 2007 and ending on 31 December 2007 for a quantity of milk powder not exceeding 4 800 tonnes; and

“(c) the European Communities—

“(i) as described in section 25(2)(a), a licence for the period beginning on 1 January 2008 and ending on 31 December 2008 for the quantities described in that section; and

“(ii) as described in section 25(2)(b), a licence for the period beginning on 1 January 2009 and ending on 31 December 2009 for the quantities described in that section; and

“(iii) as described in section 25(2)(c), a licence for the period beginning on 1 January 2010 and ending on 31 December 2010 for the quantities described in that section

“**interim period** means the period for which an interim licence is valid

“**marae** includes the area of land on which all buildings such as wharehenui (meeting houses), wharekai (dining rooms), ablution blocks, and any other associated buildings are situated

“**milk solids** means the milk-fat and protein components of raw milk

“**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**person eligible to hold an export licence** means a natural person, unincorporated body, or body corporate who is registered to export under Part 5 of the Animal Products Act 1999

- “**quota year** means, for designated markets in—
- “(a) the European Communities, the United States of America, and the Dominican Republic, a period of 12 months beginning on 1 January and ending on 31 December; and
- “(b) Japan, a period of 12 months beginning on 1 April and ending on 31 March in the following year”.
- (2) Section 5(1) is amended by repealing the definition of **chief executive** and substituting the following definition:
- “**chief executive** means the chief executive of the Ministry.”
- (3) Section 5(1) is amended by repealing the definition of **designated market** and substituting the following definition:
- “**designated market** means,—
- “(a) for the initial and interim licences, a market listed in Schedule 5; and
- “(b) for the licences that apply following the initial and interim licences, a market listed in Schedule 5A”.
- (4) The definition of **export licence** in section 5(1) is amended by repealing paragraph (b) and substituting the following paragraph:
- “
- “(b) a licence allocated under section 25, 26, or 29”.
- (5) The definition of **initial licence** in section 5(1) is amended by omitting “and continued under section 25”.

5 Purpose

Section 21(3) is amended by omitting “Schedule 5” and substituting “Schedules 5 and 5A”.

6 Overview

Section 22 is amended by repealing subsection (3) and substituting the following subsection:

- “(3) Sections 26 to 42 contain provisions relating to further export licences, restrictions on dealing with export licences, transferring export licences, enforcement, cost recovery, Ministerial directions on international obligations, and other miscellaneous provisions.”

7 Restrictions on exports to designated markets

Section 23 is repealed and substituted by the following section:

“23 Restrictions on exports to designated markets

- “(1) A person must not export directly or indirectly to a designated market any dairy product that is described in Schedules 5 and 5A for that market unless he or she—
- “(a) is the holder of a current export licence; and
 - “(b) exports product in accordance with that licence in respect to the product and market.
- “(2) No export restrictions apply to a designated market listed in Schedule 5 after the expiry of the applicable initial and interim periods unless that designated market is listed in Schedule 5A.”

8 Continuation and reduction of licences in respect of designated markets in European Communities after initial period

- (1) Section 25 is amended by omitting the heading and substituting the following heading: **“Reduction of licences in respect of designated markets in European Communities during the interim period”**.
- (2) Section 25 is amended by repealing subsection (1) and substituting the following subsection:
- “(1) The Board holds the interim licences to export to designated markets in the European Communities for the periods and the reduced amounts specified in subsection (2).”
- (3) Section 25(2) is amended by omitting “initial” and substituting “interim”.

9 New section 25A inserted

The following section is inserted after section 25:

“25A Export licence conferred on Board by section 24 or 25 must be recorded in register of export licence holders

- “(1) The chief executive must record an export licence conferred on the Board by section 24 or 25 in the register of export licence holders in accordance with section 29B as soon as reasonably practicable after the commencement of the Dairy Industry Restructuring Amendment Act 2007.

“(2) The Board must supply all necessary information to the chief executive for the purpose of subsection (1).”

10 New section 26 substituted

Section 26 is repealed and the following section substituted:

“26 Later allocation of export licences

“(1) The following are vested in or revert to the Crown:

“(a) any rights in respect of designated markets that become available as a result of the expiry of the initial period under section 24:

“(b) any rights in respect of designated markets in the European Communities listed in Schedule 5A that become available as a result of reductions under section 25:

“(c) any quantities that become available as a result of increases in rights in respect of designated markets listed in Schedule 5A after the initial periods, except where the quantities are reallocated in accordance with section 27A(2):

“(d) any rights in respect of designated markets listed in Schedule 5A that become available at the expiry of any other allocations.

“(2) Following the expiry of the initial and interim licences, export licences for the designated markets listed in Schedule 5A must be allocated or reallocated by, or on behalf of, the Crown.

“(3) The Minister must, in accordance with the rules set out in Schedule 5B, allocate export licences to multiple participants for the designated markets listed in Schedule 5A unless subsection (4) applies.

“(4) If the Minister is satisfied that an allocation under subsection (3) is not appropriate, having regard to the purpose in section 21(1), the Minister may recommend to the Governor-General that an Order in Council is made to allocate or reallocate export licences under subsection (7).

“(5) The Minister may allocate a general export licence for trade at the normal tariff (outside the terms of the quota), in respect of a designated market listed in Schedule 5A, that may be used by any person eligible to hold an export licence for any quantity of the product for which the licence applies.

- “(6) Subsection (5) applies subject to section 29A.
- “(7) The Governor-General may, by Order in Council made on the recommendation of the Minister, allocate or reallocate export licences in respect of designated markets listed in Schedule 5A.
- “(8) Before making an allocation under subsection (5), the Minister must—
- “(a) be satisfied that an allocation is appropriate in the circumstances; and
 - “(b) have regard to the purpose in section 21(1).
- “(9) Subsection (1) does not limit the Minister’s power under subsection (3) or (5), or the Governor-General’s power under subsection (7), to allocate new licences in respect of those rights or quantities to the Board or new co-op.”

11 New section 27A inserted

The following section is inserted after section 27:

“27A Increases or reductions in rights to export to designated markets after initial period

- “(1) This section applies if, after the initial period, there is an increase or reduction in rights to secure economic benefits from designated markets that are not allocated in an existing export licence.
- “(2) An increase in a right to export to a designated market during the course of an allocation period accrues on a pro rata basis to the registered holders of export licences at the time the increase first becomes available for use.
- “(3) A reduction in a right to export to a designated market during the course of an allocation period applies on a pro rata basis to the registered holders of export licences for that designated market at the time the volumes reduce.
- “(4) In the case of interim licences held by the Board, the allocation period for any licence for a specified quantity is the period for which the licence is valid for that quantity.
- “(5) An accrual under subsection (2) and a reduction under subsection (3) applies only for the remainder of the allocation period.

“(6) An accrual or reduction referred to in subsection (5) must be recorded in the register of export licence holders that is kept in accordance with section 29B.”

12 New heading and section 28A inserted

The following heading and section are inserted after section 28:

“Transferring export licences

“28A Transferring export licences

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the purpose of governing the transfer of export licences or parts of export licences.

“(2) Export licences may be transferred only in accordance with regulations made in accordance with subsection (1).

“(3) The chief executive is responsible for administering the transfer of export licences.

“(4) Subsection (1) applies subject to section 28.”

13 New heading inserted

The following heading is inserted before section 29: *“Revocation of initial licences”*.

14 New headings and sections 29A to 29L inserted

The following headings and sections are inserted after section 29:

“Quota trade completed before trade at normal tariff

“29A Quota trade completed before trade at normal tariff

“(1) This section applies to trade at the normal tariff (outside the terms of the quota) for the following markets:

“(a) prepared edible fat to Japan:

“(b) milk powder to the Dominican Republic.

“(2) For the markets listed in subsection (1), in any quota year, holders of export licences for trade at the normal tariff may not use those export licences until the quota for the market is filled in that quota year.

- “(3) A quota is to be treated as filled when the competent authority has issued export certificates to all licence holders for at least 95% of each export licence holder’s quantity of export licences.
- “(4) The competent authority must publicly notify the industry when a quota is filled in accordance with subsection (3).
- “(5) When a quota is filled, the competent authority must, as soon as is reasonably practicable,—
 - “(a) publish a notice in the *Gazette* ; and
 - “(b) notify the eligible participants in any manner that the competent authority considers effective and appropriate, including electronically.
- “(6) An export licence holder may use the export licence for trade at the normal tariff only for the remainder of the quota year in which publication and notification are made in accordance with subsection (5).

“Maintaining register of licence holders

“29B Register of export licence holders

- “(1) The chief executive must—
 - “(a) keep and maintain a register of export licence holders; and
 - “(b) make the register available to the competent authority; and
 - “(c) on receipt of a written request, allow a holder of an export licence to inspect information on the register that relates to his or her licence.
- “(2) The register must contain the following information:
 - “(a) the full name and address of the export licence holder;
 - “(b) each designated market for which the holder holds an export licence;
 - “(c) the volume of quota rights held in respect of each export licence for each quota year;
 - “(d) the following dates for each export licence:
 - “(i) date of registration;
 - “(ii) date of commencement;
 - “(iii) date of expiry;

- “(e) the date of transfer, if any, of the export licence or part of the export licence:
 - “(f) the full name and address of the previous holder of the export licence.
- “(3) If a person holds more than 1 export licence for a designated market for the same quota year, each export licence must be registered separately.
- “(4) This section does not apply to general export licences allocated under section 26(5).

“Powers of chief executive

“29C Power to authorise persons

The chief executive may only authorise a person to exercise a power under sections 29E to 29L if that person has appropriate training, experience, or qualifications in the exercise of that power.

“29D Power to require assistance

The chief executive, or a person authorised by the chief executive, may call on any person for assistance in the exercise of any or all of the powers under sections 29E to 29L.

“29E Power of entry without search warrant

- “(1) For the purpose of determining and monitoring compliance with the rules set out in Schedule 5B, the chief executive, or a person authorised by the chief executive, may during business hours enter any place (other than a dwellinghouse or marae) without a search warrant.
- “(2) Before entering any place under subsection (1), the chief executive or person authorised by the chief executive must—
- “(a) give the owner or occupier reasonable notice of his or her intention to enter the place, unless to do so would defeat the purpose of the entry; and
 - “(b) if notice under paragraph (a) is not or cannot be given, leave in a prominent location at the place a written statement of—
 - “(i) the time and date of the entry; and
 - “(ii) the purpose of the entry; and

- “(iii) the name of the person; and
 - “(iv) the address of the office to which inquiries should be made.
- “(3) A person who exercises any power under this section must produce his or her evidence of authorisation—
- “(a) on first entering the place; and
 - “(b) subsequently whenever reasonably required to do so by a person appearing to have charge of the place or any part of the place.

“29F Power to examine, etc

For the purpose of determining and monitoring compliance with the rules set out in Schedule 5B, the chief executive, or a person authorised by the chief executive, may, at any place entered in accordance with section 29E,—

- “(a) examine all things, and open containers, packages, and other things to inspect their contents:
- “(b) examine, inquire about, and copy any documents or other records (including records held in electronic or other form) and may—
 - “(i) remove documents or records to another place for a reasonable time for the purpose of copying them, or require the person having control of the documents or other records to forward them or a copy of them to the officer by way of post, courier post, fax, or other means acceptable to the chief executive or authorised person; and
 - “(ii) require a person who has control of or knowledge of the documents or records to reproduce or assist in reproducing in usable form information recorded or stored in a computer or other device or system; and
 - “(iii) direct the occupier to identify and hold any equipment, package, container, or document until any lawful direction of the chief executive, or a person authorised by the chief executive, has been complied with; and
 - “(iv) take photographs of any container, package, equipment, or thing.

“29G Power to require information

- “(1) For the purpose of determining and monitoring compliance with the rules set out in Schedule 5B, the chief executive, or a person authorised by the chief executive, may require an eligible participant or an employee or agent of an eligible participant to provide any relevant information or documents or answer any relevant questions.
- “(2) Any information, documents, or answers required under subsection (1) must be provided within a reasonable time to a person or place as directed by the chief executive, or a person authorised by the chief executive.
- “(3) An eligible participant or an employee or agent of an eligible participant may not refuse to answer a question under subsection (1) on the ground that the answer would be likely to incriminate the eligible participant.
- “(4) An incriminating answer under this section—
- “(a) may be used in civil or criminal proceedings against the eligible participant if it is a body corporate; but
 - “(b) may not be used in civil or criminal proceedings against the employee or agent of the eligible participant who gave the incriminating answer.

“29H Power to audit milk collection data

- “(1) For the purpose of determining and monitoring compliance with the rules set out in Schedule 5B, the chief executive, or a person authorised by the chief executive, may audit the milk collection data received from an eligible participant.
- “(2) Participants must be notified of the possibility of an audit on a cost-recovery basis at the time of an application for an export licence.
- “(3) Participants may be charged a fee for an audit carried out under subsection (1).

*“Search warrants***“29I Issue of search warrant**

- “(1) A District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may issue a search warrant in the form set out in Schedule 5D in respect of any place if satisfied, on

application in writing made on oath, that there are reasonable grounds for believing that there is at that place any thing—

- “(a) in respect of which an offence under section 31(3) has been or is being committed; or
 - “(b) that has been, is being, or is intended to be used by any person for the commission of an offence under section 31(3); or
 - “(c) that is evidence of the commission of an offence under section 31(3) by any person.
- “(2) The District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may impose any reasonable conditions on the warrant that he or she thinks fit.
- “(3) A search warrant must be directed to a member of the police by name or to every member of the police or to the chief executive or to a person authorised by the chief executive by name, but, in any of these cases, the warrant may be executed by any member of the police.

“29J Entry and search powers when executing warrant

- “(1) The chief executive or authorised person who executes the warrant may use any force that is reasonable to—
- “(a) enter an area that is to be searched; or
 - “(b) break open or access an item that is to be seized.
- “(2) The chief executive, or person authorised by the chief executive, who executes a search warrant may seize any item that—
- “(a) he or she has reasonable grounds to believe is evidence of an offence under this Act; or
 - “(b) is found while he or she is lawfully—
 - “(i) exercising a search power; or
 - “(ii) in the place in which the item is found.
- “(3) Subsection (2)(b) applies even if the seizure of the item is not authorised by the search warrant.
- “(4) If it is not reasonably practicable to determine whether an item may be seized in accordance with a search warrant, the chief executive or authorised person may remove the item for the purpose of examination or processing to determine whether it may be seized.

“29K Requirements when executing warrant

- “(1) The chief executive, or a person authorised by the chief executive, who executes a search warrant must carry the warrant with him or her, and produce it for inspection, along with evidence of his or her identity,—
- “(a) on first entering the place specified in the warrant, to the person appearing to be in charge of the place; and
 - “(b) whenever subsequently required to do so, at the place specified in the warrant, by any other person appearing to be in charge of the place or any part of the place.
- “(2) If the occupier of the place is not present at the time the search warrant is executed, the chief executive or authorised person must leave in a prominent location at the place a written statement of the time and date of the search, a copy of the search warrant, the name of the chief executive or authorised person, and the address to which inquiries may be made.
- “(3) If anything is seized in the execution of a search warrant, the chief executive or authorised person executing the search warrant must leave in a prominent location at the place, or deliver or send by registered mail to the occupier within 10 working days after the search, or a later date if an extension is approved by a District Court Judge, a written inventory of all things seized.
- “(4) The chief executive or authorised person may make an application, at the time of making an application for a search warrant, for a waiver from subsections (2) and (3) if he or she believes that there are reasonable grounds for believing that compliance with those subsections would unduly prejudice any ongoing or subsequent investigations or endanger the safety of any person.
- “(5) A waiver under subsection (4) may only be issued for a specified period up to 12 months.
- “(6) The chief executive or authorised person who executed the search warrant must provide information to persons from whom items have been seized regarding—
- “(a) access to and the disposition of the seized items; and
 - “(b) the right, under the Official Information Act 1982, to access documentation relating to the application for a search warrant and the exercise of a search power.

“(7) The chief executive or authorised person who is exercising a power of entry in relation to a marae, or a building associated with a marae, must have regard to the kawa of the marae so far as is practicable in the circumstances.

“29L Disposal of property seized under search warrant

Section 199 of the Summary Proceedings Act 1957 applies to any property seized by a member of the police under a search warrant and, with any necessary modifications, to property seized under a search warrant by the chief executive, or a person authorised by the chief executive, subject to the following provisions:

- “(a) where a member of the police seized the item in question, it may be retained by the Commissioner of Police pending the trial of the person for the offence in respect of which the item was seized:
- “(b) where the chief executive, or a person authorised by the chief executive, seized the item in question, it may be retained by the chief executive pending the trial of the person for the offence in respect of which the item was seized:
- “(c) the item in question must be returned to the person from whom it was seized—
 - “(i) if no proceedings are taken in respect of an offence to which the item relates within 6 months after its seizure; or
 - “(ii) if proceedings are completed in respect of such an offence and no order of forfeiture is made in respect of the item:
- “(d) if any person is convicted of an offence to which the item relates, the Court may, if it thinks fit, order that the item be forfeited to the Crown or disposed of as the Court directs at the expense of the convicted person, and may order that the person pay any reasonable costs incurred by the Commissioner of Police or the chief executive in retaining the item.”

15 Offences

Section 31 is amended by adding the following subsections as subsections (2) and (3):

- “(2) Every person commits an offence against this Act, and is liable on summary conviction to the following fines, who does not provide the information or document required under section 29G:
- “(a) a fine not exceeding \$200,000; and
 - “(b) a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued.
- “(3) Every person commits an offence against this Act, and is liable for the following, who provides a false declaration in relation to milk collection data contrary to Schedule 5B:
- “(a) a declaration by a court of competent jurisdiction that the person is not eligible for further allocations of export licences for a period determined by the court; and
 - “(b) a fine not exceeding \$200,000 or a term of imprisonment not exceeding 3 months, or both.”

16 Overview

Section 43 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) Sections 62 to 65A contain regulation-making powers relating to herd testing, the provision of information to the core database, access to the core database, disclosure of information by LIC, and regulations relating to a dairy industry entity other than LIC.”

17 New section 65A inserted

The following section is inserted after section 65:

“65A Regulations relating to dairy industry entity other than LIC

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the purposes set out in sections 62 to 65 in respect of any dairy industry entity, other than LIC, nominated by the Crown to manage the core database.
- “(2) Regulations may be made under subsection (1) only—

- “(a) if the core database reverts to the Crown under section 68(2); or
- “(b) if provisions of the constitution of LIC are amended or revoked in accordance with section 51; or
- “(c) if LIC makes an application under section 52(2).”

18 Information to be supplied to chief executive

- (1) Section 66(1) and (3) are amended by omitting “LIC” in each place where it appears and substituting in each case “LIC or any other dairy industry entity nominated by the Crown to manage the core database”.
- (2) Section 66 is amended by repealing subsection (2) and substituting the following subsection:
 - “(2) The chief executive may request (in writing) information, statements, or reports from LIC or any other dairy industry entity nominated by the Crown to manage the core database to monitor LIC’s or that other dairy industry entity’s compliance with regulations made under section 65.”

19 Schedule 5 amended

The heading to Schedule 5 is omitted and the following heading substituted: “**Designated markets for initial and interim licences**”.

20 New Schedules 5A, 5B, 5C, and 5D inserted

The Schedules 5A, 5B, 5C, and 5D set out in the Schedule of this Act are inserted after Schedule 5.

Part 2

Amendment to Animal Products Act 1999

21 Principal Act amended

This Part amends the Animal Products Act 1999.

22 New section 115A inserted

The following section is inserted after section 115:

“115A Application of section 115(1) to assurances in respect of export licences issued under Dairy Industry Restructuring Act 2001

Section 115(1) does not apply to assurances given in respect of export licences issued under the Dairy Industry Restructuring Act 2001 until the financial year beginning 1 July 2010.”

Schedule

s 20

**New Schedules 5A, 5B, 5C, and 5D
inserted**

Schedule 5A

ss 21(3), 23, 26

**Designated markets following expiry of
initial and interim licences**

Market	Product	Further product description
European Communities	Butter	Destined for import into the European Communities under the tariff quota for butter of New Zealand origin, as provided for in the Current Access Quotas part of Section I-B of Schedule CXL/European Communities of the World Trade Organization (this being the document circulated as WTO document G/L/65), including any amendment or any

Schedule 5A—*continued*

Market	Product	Further product description
European Communities	Cheddar cheese	<p>successor to that schedule.</p> <p>Destined for import into the European Communities under the tariff quota for cheddar cheese of New Zealand origin, as provided for in the Current Access Quotas part of Section 1-B of Schedule CXL/European Communities of the World Trade Organization (this being the document circulated as WTO document G/L/65), including any amendment or any successor to that schedule.</p>

Schedule 5A—*continued*

Market	Product	Further product description
European Communities	Cheese for processing	Destined for import into the European Communities under the tariff quota for cheese for processing of New Zealand origin, as provided for in the Current Access Quotas part of Section I-B of Schedule CXL/European Communities of the World Trade Organization (this being the document circulated as WTO document G/L/65), including any amendment or any successor to that schedule.
United States of America	Cheddar cheese	Product that falls within the product description provided in headnote 16 of Schedule XX/United States of America of the World Trade Organization for entry under the tariff quota for

Schedule 5A—*continued*

Market	Product	Further product description
United States of America	Low-fat cheese	cheddar cheese of New Zealand origin, only including those quantities for which designated importer import licences are issued in accordance with United States of America law, and not including product destined for import into the United States of America other than under the terms of that tariff quota. Product that falls within the product description provided in headnote 21 of Schedule XX/United States of America of the World Trade Organization for entry under the tariff quota for low-fat cheese of New Zealand origin, not including product destined for import into the United States of America other than under the

Schedule 5A—*continued*

Market	Product	Further product description
United States of America	NSPF cheese	terms of that tariff quota. Cheese and substitutes for cheese that fall within the product description provided in headnote 14 of Schedule XX/United States of America of the World Trade Organization for entry under the tariff quota for cheese of New Zealand origin, only including those quantities for which designated importer import licences are issued in accordance with United States of America law, and not including product destined for import into the United States of America other than under the terms of that tariff quota.

Schedule 5A—*continued*

Market	Product	Further product description
United States of America	Other American-type cheese	Product that falls within the product description provided in headnote 17 of Schedule XX/United States of America of the World Trade Organization for entry under the tariff quota for other American-type cheese of New Zealand origin, only including those quantities for which designated importer import licences are issued in accordance with United States of America law, and not including product destined for import into the United States of America other than under the terms of that tariff quota.

Schedule 5A—*continued*

Market	Product	Further product description
Japan	Prepared edible fat	Product falling within HS code 2106.90 that falls within the product description provided in Schedule XXXVIII/Japan of the World Trade Organization for entry under the tariff quota for prepared edible fat of New Zealand origin, including trade outside the terms of the quota.
Dominican Republic	Milk powder	Product that falls within the product description provided in Schedule XXIII/Dominican Republic of the World Trade Organization for entry under the tariff quota for milk powder of New Zealand origin, including trade outside the terms of the quota.

Schedule 5B

s 26(3)

**Rules for allocation of export licences
to multiple participants for designated
markets in Schedule 5A****1**

Export licences are allocated to eligible participants on the basis of the percentage of total milksolids collected by eligible participants, or their employees, contractors, or agents, directly from dairy farmers in New Zealand in the most recent season for which data is available, or the average of the 2 or 3 most recent seasons.

2

To be eligible to receive a share of export licences, participants must collect (or a participant's employees, contractors, or agents may collect) and acquire legal title in at least 0.1% of total milksolids collected from dairy farmers in New Zealand, based on—

- (a) the most representative data of total milksolids collected in New Zealand, in the latest year for which data is available prior to an allocation period; and
- (b) milksolids collection data submitted by each eligible participant by statutory declaration for—
 - (i) the most recent season; and
 - (ii) the previous season (if a participant wishes to use an average of the most recent 2 seasons for the purpose of assessing his or her eligibility to receive a share of export licences); and
 - (iii) the season immediately prior to the season referred to in subparagraph (ii) (if a participant wishes to use an average of the most recent 3 seasons for the purpose of assessing his or her eligibility to receive a share of export licences).

Schedule 5B—*continued***3**

For the purposes of assessing the share of export licences, each participant must submit milk collection data to the chief executive or a person authorised by the chief executive by statutory declaration (as set out in Schedule 5C), including—

- (a) data from the most recent season; and
- (b) data from the previous season (if a participant wishes to use an average of the most recent 2 seasons for the purpose of assessing his or her share of export licences); and
- (c) data from the season immediately prior to the season referred to in paragraph (b) (if a participant wishes to use an average of the most recent 3 seasons for the purpose of assessing his or her share of export licences).

4

Each eligible participant receives an export licence in a market only if that participant's share of export licences in that market equates to a volume of 20 tonnes or more of product. Any volume of export licences that is available as a result of this rule will be allocated pro rata to the remaining eligible participants.

5

The Minister must ensure all allocations of export licences are notified in the *Gazette*.

6

An export licence is to be allocated for a period of 1 quota year.

Schedule 5B

Schedule 5C
Form of statutory declaration

Form
Form of statutory declaration

I, *[full name]*, of *[address]*, being the chief executive officer*/director* of *[name of company]*, solemnly and sincerely declare that to the best of my knowledge, having made all reasonable inquiries,—

- (a) the information attached to this declaration is a true copy of information that complies with the requirements of Schedule 5B; and
- (b) the *[specify statement(s), report(s), or information]* attached to this declaration is/are* the *[statement(s), report(s), or information]* required to be supplied by the chief executive under Schedule 5B.

*Delete if inapplicable.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at *[place]* on *[date]*

.....
Registrar
or Justice of the Peace
or Solicitor
or other person authorised to take a
statutory declaration

Schedule 5D
Search warrant
Form
Search warrant

s 291

Section 29I, Dairy Industry Restructuring Act 2001

To every member of the police

or

To [full name], the chief executive officer of the Ministry of Agriculture and Forestry*/person authorised by the chief executive*/member of the police*

*Delete if inapplicable.

I am satisfied on an application in writing made on oath by [full name], the chief executive (or an authorised person under the Dairy Industry Restructuring Act 2001), that there is reasonable ground for believing that there is (or are) at [describe place, dwellinghouse, or marae] the following thing(s):

- in respect of which an offence against section 31(3) of the Dairy Industry Restructuring Act 2001 has been committed; or
- that is evidence of the commission of an offence against section 31(3) of the Dairy Industry Restructuring Act 2001; or
- that is intended to be used for the commission of an offence under section 31(3) of the Dairy Industry Restructuring Act 2001.

[Describe thing or things and, in respect of each, reference to offence concerned.]

I authorise you to enter and search that place on one occasion at any reasonable time within 14 days of the date of this warrant.

I also authorise you to exercise all of the powers of the chief executive, or a person authorised by the chief executive, under sections 29E to 29L of the Dairy Industry Restructuring Act 2001 (or such of those powers as are specified).

This warrant is issued subject to the following conditions: [specify conditions]*

*Delete this sentence if no conditions apply.

Issued at [place] on [date]

.....
District Court Judge
or Community Magistrate
or Justice of the Peace
or Registrar (not being a member of the police)

Legislative history

14 August 2007	Introduction (Bill 142-1)
21 August 2007	First reading and referral to Primary Production Committee
31 October 2007	Reported from Primary Production Committee (Bill 142-2)
12 December 2007	Second reading, committee of the whole House, third reading
