



Dairy Industry Restructuring Amendment Act 2020

Public Act 2020 No 46
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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Dairy Industry Restructuring Amendment Act 2020.

2 Commencement

- (1) Sections 20, 21, 23, 24, 25, 26, 27, 28, and 30 come into force on 1 June 2023.
- (2) So much of Part 3 of Schedule 2 as relates to the definition of **own supply** in regulation 3 of the Dairy Industry Restructuring (Raw Milk) Regulations 2012 comes into force on 1 June 2024.
- (3) The rest of this Act comes into force on 1 June 2021.

3 Principal Act

This Act amends the Dairy Industry Restructuring Act 2001 (the **principal Act**).

Part 1

Main amendments to principal Act

4 Section 4 amended (Purpose)

Replace section 4(e) with:

- (e) provide for the regulation of matters relating to the core database, including its management; and

5 Section 5 amended (Interpretation)

- (1) In section 5(1), insert in their appropriate alphabetical order:

Access Panel means the Access Panel established by regulations made under section 63

constitution means,—

- (a) in the case of a company within the meaning of section 2(1) of the Companies Act 1993, the constitution of the company; and
- (b) in the case of any other entity, the documents or instruments that form the constitution of the entity

entity means any of the following:

- (a) a company or other body corporate;
- (b) a corporation sole;
- (c) in the case of a trust that has—
 - (i) only 1 trustee, the trustee acting in their capacity as trustee;
 - (ii) more than 1 trustee, the trustees acting jointly in their capacity as trustees;
- (d) an unincorporated body (including a partnership)

farm gate milk price means the total cost of milk divided by kilograms of milk solids that new co-op pays out to shareholder farmers in a season

intended manager, in relation to the core database, means an entity named as the intended manager of the core database by regulations made under section 65B

kilograms of milk solids means the number of kilograms of milk solids supplied to new co-op in a season by shareholding farmers

manager of the core database means—

- (a) DairyNZ Limited; or
- (b) an entity appointed by regulations made under section 65A, if regulations have been made under that section; or
- (c) the Crown, if the management of the core database has reverted to the Crown under section 68 (and no entity has been appointed by regulations made under section 65A)

organic milk means raw milk certified as organic milk by a certifying entity or person prescribed by regulations made under section 115

previous manager, in relation to the core database, means an entity (or the Crown) replaced as manager of the core database by regulations made under section 65A

raw milk—

- (a) means untreated milk from a cow; and

- (b) includes untreated organic milk; and
- (c) includes any other milk of a kind that is not excluded by paragraph (d) and is prescribed by regulations made under section 115; but
- (d) does not include—
 - (i) milk or a component of milk from a cow if the milk or component is produced under special conditions by, for example, the use of specialised herd selection, specialised farming practice, specialised feeding practice, or new technology; or
 - (ii) colostrum

total cost of milk means the total calculated by—

- (a) getting a sum by adding together all payments to which all the following apply:
 - (i) the payment is made by new co-op or any body that is an interconnected body corporate of new co-op; and
 - (ii) the payment is made to a shareholding farmer; and
 - (iii) the payment is for the raw milk that the farmer supplies to new co-op or any body that is an interconnected body corporate of new co-op in a season; and
- (b) deducting from the sum—
 - (i) the total organic milk premium for the season; and
 - (ii) the total winter milk premium for the season

total organic milk premium means the total premium paid to shareholding farmers for the supply of organic milk to new co-op and any body that is an interconnected body corporate of new co-op in a season

total winter milk premium means the total premium paid to shareholding farmers for the supply of winter milk to new co-op and any body that is an interconnected body corporate of new co-op in a season

winter milk means raw milk supplied in June or July, and in any other period prescribed by regulations made under section 115

- (2) In section 5(1), replace the definition of **core database** with:

core database means the database that comprises—

- (a) information provided to the manager of the core database under—
 - (i) the Herd Testing Regulations 1958 or under the terms and conditions of any licence issued under those regulations; or
 - (ii) any regulations made under section 62; and
- (b) information provided to a previous manager under any of the things referred to in paragraph (a) while it was the manager of the core database; and

- (c) information provided to a previous manager or an intended manager under regulations made under section 65C
- (3) In section 5(1), repeal the definition of **panel** that relates to the panel established under regulations made under section 63.
- (4) In section 5(1), repeal the definitions of **approved restructuring day**, **qualifying company**, and **qualifying products or services**.

6 New sections 5A and 5B inserted

After section 5, insert:

5A Status of examples

- (1) An example used in this Act is only illustrative of the provisions to which it relates. It does not limit those provisions.
- (2) If an example and a provision to which it relates are inconsistent, the provision prevails.

5B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

7 Subpart 4 heading in Part 2 replaced

In Part 2, replace the subpart 4 heading with:

Subpart 4—Management of core database

8 Section 43 amended (Overview)

- (1) Replace section 43(1) and (2) with:
 - (1) Section 43A states that the constitution of the manager of the core database must be read as requiring the manager to retain the core database.
 - (2) Sections 48 to 52 contain provisions relating to the constitution and corporate form of LIC.
 - (2A) Sections 62 to 65D contain regulation-making powers relating to—
 - (a) herd testing:
 - (b) the provision of information to the core database:
 - (c) access to the core database:
 - (d) disclosure of information by the manager of the core database:
 - (e) the appointment of the manager of the core database and the naming of an intended manager:
 - (f) the regulation of a previous manager or an intended manager of the core database.
- (2) In section 43(3), replace “69” with “68”.

9 Cross-heading after section 43 repealed

Repeal the cross-heading after section 43.

10 New section 43A inserted (Manager of core database must retain database)

After section 43, insert:

43A Manager of core database must retain database

- (1) The constitution of the manager of the core database must be read as requiring the manager to retain the core database.
- (2) Subsection (1) does not apply if—
 - (a) the Minister and the manager of the core database agree in writing that the subsection no longer applies; or
 - (b) the manager of the core database is the Crown.

11 Section 61 and cross-heading above section 61 repealed

Repeal section 61 and the cross-heading above section 61.

12 Section 62 amended (Regulations relating to herd testing and provision of information to core database)

- (1) In section 62(e), replace “LIC for entering into the core database” with “the manager of the core database for entering into the core database”.
- (2) In section 62(f), replace “LIC” with “the manager of the core database”.

13 Section 63 amended (Regulations relating to access to core database)

- (1) In section 63(1)(a), (b)(ii), (c), (h), and (j) and (5), replace “LIC” with “the manager of the core database” in each place.
- (2) In section 63(1)(g), replace “LIC’s” with “the manager of the core database’s”.
- (3) In section 63(4), replace “LIC” with “The manager of the core database”.

14 Section 64 amended (General regulations relating to herd testing and core database)

- (1) In section 64(a)(i), replace “LIC” with “the manager of the core database”.
- (2) In section 64(b), replace “LIC’s” with “the manager of the core database’s”.

15 Section 65 amended (Regulations requiring disclosure of information by LIC)

- (1) In the heading to section 65, replace “LIC” with “**manager of core database**”.
- (2) In section 65(a), replace “LIC” with “the manager of the core database”.
- (3) In section 65(a)(i) and (ii), replace “LIC’s” with “the manager’s”.

16 Section 65A replaced (Regulations relating to dairy industry entity other than LIC)

Replace section 65A with:

65A Regulations appointing manager of core database

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations appointing an entity to manage the core database.
- (2) The Minister may make the recommendation only if—
 - (a) the core database reverts to the Crown under section 68; or
 - (b) the existing manager of the core database asks the Minister in writing to make the recommendation; or
 - (c) the existing manager has changed, or the Minister considers it likely that the existing manager will change, its constitution in a way that the Minister considers may compromise its suitability as manager of the core database; or
 - (d) the Minister considers that the existing manager has failed, or is at risk of failing, to—
 - (i) comply with this Act or any regulations made under sections 62 to 65; or
 - (ii) manage the core database in a way that the Minister considers satisfactory.
- (3) The Minister must,—
 - (a) before making a recommendation under subsection (2)(c), consult the existing manager;
 - (b) before making a recommendation under subsection (2)(d)(ii), give the existing manager a reasonable opportunity to manage the database in a way that the Minister considers satisfactory.
- (4) An appointment under subsection (1) takes effect on a date specified in the regulations.
- (5) The appointment of an existing manager ends when an appointment under subsection (1) takes effect.
- (6) A failure to comply with subsection (3) does not affect the validity of regulations made under this section.

65B Regulations naming intended manager of core database

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations naming an entity as the intended manager of the core database.

- (2) The Minister may make the recommendation only on the written request of the entity.

65C Regulations for previous manager or intended manager of core database

- (1) This section applies if 1 or both of the following apply:
- (a) regulations are made under section 65A to appoint a new manager of the core database:
 - (b) regulations are made under section 65B naming an intended manager of the core database.
- (2) For the purposes of this section, the provisions referred to in subsection (3) apply as if the previous manager or intended manager were the manager of the core database.
- (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) the purposes described in—
 - (i) section 62(e) and (f):
 - (ii) section 63(1)(a), (c), (g), (h), and (j):
 - (iii) section 64(a):
 - (iv) section 65:
 - (b) providing for audits of compliance with regulations made under paragraph (a)(i) to (iii) and for matters related to the audit, including the auditor's powers:
 - (c) prescribing offences for the breach of, or non-compliance with, regulations made under paragraph (a)(i) to (iii):
 - (d) prescribing penalties not exceeding \$20,000 for any of those offences:
 - (e) providing that a person is liable for damages for any loss or damage caused by that person's contravention of regulations made under paragraph (a)(i) to (iii).
- (4) If regulations are made, or to be made, under this section for the purpose described in section 63(1)(j), section 63(2) to (7) applies—
- (a) to the previous manager or intended manager as if it were the manager of the core database; and
 - (b) to the regulations as if they were made, or to be made, under section 63.
- (5) If regulations are made under this section for a purpose described in section 65, sections 66 and 67 apply—
- (a) to the previous manager or intended manager as if it were the manager of the core database; and
 - (b) to the regulations as if they were made under section 65.

65D Duration of regulations for previous manager or intended manager of core database

- (1) Regulations made under section 65C are revoked on the close of the fifth anniversary of their commencement unless—
 - (a) the regulations are revoked earlier; or
 - (b) the Governor-General by Order in Council confirms that the regulations will remain in force.
- (2) If an Order in Council is made under subsection (1)(b), the regulations remain in force until they are revoked.

17 Section 66 amended (Information to be supplied to chief executive)

- (1) In section 66(1) and (3), replace “LIC or any other dairy industry entity nominated by the Crown to manage the core database” with “The manager of the core database”.
- (2) In section 66(2), replace “LIC or any other dairy industry entity nominated by the Crown to manage the core database” with “the manager of the core database”.
- (3) In section 66(2), replace “LIC’s or that other dairy industry entity’s” with “the manager’s”.

18 Section 68 replaced (Database if LIC wound up)

Replace section 68 with:

68 When management of core database reverts to the Crown

The management of the core database reverts to the Crown if—

- (a) the Minister and the manager of the core database agree under section 43A(2)(a) that section 43A(1) no longer applies; or
- (b) a liquidator or interim liquidator is appointed for the manager of the core database under Part 16 of the Companies Act 1993 or any other enactment; or
- (c) an administrator is appointed for the manager of the core database in respect of a voluntary administration under Part 15A of the Companies Act 1993; or
- (d) a receiver is appointed in respect of all or substantially all of the property of the manager of the core database; or
- (e) a statutory manager is appointed for the manager of the core database under Part 3 of the Corporations (Investigation and Management) Act 1989 or any other enactment; or
- (f) the manager of the core database is removed from the register of companies kept under section 360(1)(a) of the Companies Act 1993; or

- (g) the manager of the core database is liquidated, wound up, or dissolved or otherwise ceases to exist.

19 Section 69 repealed (Herd Testing Regulations 1958 deemed to have been made under this Act)

Repeal section 69.

20 Section 71 amended (Statement of principles)

Replace section 71(b) with:

- (b) new co-op must accept applications by shareholding farmers to supply it with milk:

21 Section 72 amended (Overview)

(1) Replace section 72(1) with:

- (1) Sections 73 to 85 describe the obligations of new co-op if it accepts applications from new entrants and shareholding farmers to supply milk, as shareholding farmers.

(2) Repeal section 72(3).

22 Section 73 amended (New co-op must accept application)

Replace section 73(3) with:

- (3) New co-op must notify the applicant, within 15 working days of receipt of the application,—
 - (a) of its acceptance of the application; or
 - (b) of its rejection of the application under section 94 or 95.
- (3A) Further provisions relating to the exceptions are in—
 - (a) section 94 (the first exception):
 - (b) section 95 (the second exception).

23 Cross-heading above section 73 amended

In the cross-heading above section 73, replace “*must*” with “*may*”.

24 Section 73 replaced (New co-op must accept application)

Replace section 73 with:

73 New co-op’s obligations relating to applications by shareholding farmers and discretion to accept new entrants

- (1) New co-op must accept an application to increase the volume of milk supplied as a shareholding farmer to new co-op that is made by a shareholding farmer in an application period.

- (2) New co-op may, in its discretion, accept or decline an application made in an application period by a new entrant to supply milk to new co-op.
- (3) In exercising its discretion to accept or decline an application to become a shareholder, new co-op must have regard to—
 - (a) the effect of its decision on the ongoing viability of the farm to which the application relates, if new co-op had a supply agreement in respect of the farm at any time in the previous season; and
 - (b) the land-use opportunities available to the applicant.
- (4) New co-op must notify the applicant of its decision on the application within 15 working days of receipt of the application.
- (5) Sections 136 to 139 specify—
 - (a) how an application may be given; and
 - (b) when an application is made.

25 Section 74 amended (Commencement and terms of supply)

Replace section 74(1) with:

- (1) If new co-op accepts an application under section 73 made in an application period, new co-op must accept the milk to which the application relates from the beginning of the season following that application period.

26 Section 81 amended (Requirements applying to co-operative shares for applications in application period)

- (1) In section 81(1), replace “is required by section 73 to accept” with “accepts under section 73”.
- (2) In section 81(3), replace “is required to accept” with “accepts”.

27 Section 87 amended (Effect of capacity constraint notice on supply)

- (1) In section 87(1), replace “is required to accept” with “accepts”.
- (2) In section 87(3), replace “is required to accept” with “accepts”.

28 Sections 94 to 96 and cross-heading repealed

Repeal sections 94 to 96 and the cross-heading above section 94.

29 Section 106 amended (No discrimination between suppliers)

After section 106(4), insert:

- (5) In its terms of supply, but subject to subsections (1) to (4), new co-op may provide for differential pricing for milk based on any matters specified in the terms of supply, including, but not limited to, matters that relate to animal welfare, food safety, health and safety, employment conditions, the environment, climate change, and sustainability.

30 Section 107 amended (Regulation of supply contracts for raw milk)

Replace section 107(1) with:

- (1) If new co-op accepts applications from new entrants, it must offer them contracts for milk supply as shareholding farmers for 1 season.

31 Section 115 amended (Regulations relating to milk)

- (1) After section 115(1)(f)(i), insert:

- (ia) periodic returns of milk solids bought from, or sold to, other persons:

- (2) After section 115(1)(f), insert:

- (fa) prescribe entities and persons who may certify raw milk as organic milk; and
 - (fb) prescribe any matter that is authorised to be prescribed for the purposes of the definitions of raw milk and winter milk in section 5(1); and

32 Section 134 replaced (Levy regulations)

Replace section 134 with:

134 New co-op must pay levy

- (1) New co-op must pay, in each financial year, a levy to the Minister that is determined in accordance with regulations made under subsection (2).
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
 - (a) specifying the amount of the levy, or method of calculating or ascertaining the amount of the levy, on the basis that the costs estimated under subsection (4) should be met fully out of the levy;
 - (b) including in the levy, or providing for the inclusion in the levy of, any shortfall in recovering those actual costs (including, without limitation, providing for a reconciliation of the levy against the levy that would have been payable had the calculation used the actual costs and invoicing new co-op for the amount under-recovered from it as part of the levy);
 - (c) refunding, or providing for refunds of, any over-recovery of those actual costs;
 - (d) specifying 1 or more financial years or part financial years to which the levy applies;
 - (e) providing for the levy amount to be specified in the *Gazette* or some other publication (if the amount is not specified in the regulations);
 - (f) providing for the payment and collection of the levy;

- (g) requiring payment of the levy for a financial year or part financial year, even though the regulations may be made after that financial year has commenced;
 - (h) exempting or providing for exemptions from, and providing for waivers of, the whole or any part of the levy.
- (3) The regulations may provide for the levy to apply, and be calculated in respect of, 1 or more financial years (with the levy being collected in each of those years from new co-op).
- (4) In calculating estimated costs for the purposes of subsection (2)(a), the Commission—
- (a) may include—
 - (i) the cost of making determinations; and
 - (ii) the cost of enforcing this subpart or subpart 5A; and
 - (iii) the cost of enforcing determinations in the High Court; and
 - (iv) over-recoveries or under-recoveries of actual costs; and
 - (v) the cost of conducting reviews under subpart 5A; and
 - (b) must exclude—
 - (i) the cost of taking other proceedings in the High Court, or defending proceedings against the Commission in the High Court; and
 - (ii) the cost of investigations that are not related to complaints or determinations made under this subpart; and
 - (iii) the cost of providing input for the reports under section 147 on the operation of subparts 5 and 5A; and
 - (c) must calculate and deduct the total amount of application fees likely to be received.
- (5) The Minister must consult with new co-op and the Commission before making a recommendation under subsection (2).
- (6) The amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.

33 Section 145 amended (Application of Commerce Act 1986 provisions)

- (1) After section 145(a), insert:
- (aa) sections 74A to 74C (provisions relating to undertakings):
- (2) After section 145(1), insert:
- (la) section 100A (stating case for High Court):

34 New sections 147 to 150 and cross-heading inserted

After section 146, insert:

*Regular reports on operation of subparts 5 and 5A***147 Minister must require regular reports**

- (1) The Minister must require regular reports from the chief executive on whether this subpart and subpart 5A should be retained, repealed, or amended.
- (2) The Minister must require the first report no earlier than 4 years after the commencement of the Dairy Industry Restructuring Amendment Act 2020 and present the report to the House of Representatives no later than 6 years after commencement of that Act.
- (3) The Minister must require any subsequent report no earlier than 4 years after presentation of the previous report to the House of Representatives, and present the report to the House of Representatives no later than 6 years after presentation of the previous report to the House of Representatives, unless subsection (4) or (5) applies.
- (4) If a Bill is introduced into the House of Representatives to amend this Act in the 6 years before the Minister is required to present a report under subsection (3) and the Bill is passed, the Minister must instead—
 - (a) require a report no earlier than 4 years after the commencement of that enactment or (if different provisions come into force on different dates) the earliest date on which any provision of the enactment commences (the **commencement date**); and
 - (b) present the report to the House no later than 6 years after the commencement date.
- (5) If the Bill is withdrawn, lapses with the dissolution or expiry of Parliament, or is defeated, the Minister must—
 - (a) request the report no earlier than 4 years after the withdrawal, lapse, or defeat of the Bill; and
 - (b) present the report to the House of Representatives no later than 6 years after the commencement date.

148 Commission input

- (1) The Minister may, in consultation with the Minister responsible for the Commerce Act 1986, require the Commission to provide input for a regular report under section 147.
- (2) In providing any input to the report as required by the Minister, the Commission may exercise the powers specified in section 145.

149 Terms of reference for report to be published

- (1) The terms of reference for a report under section 147 may provide for any matter that relates to whether subparts 5 and 5A should be retained, repealed, or amended that the Minister considers appropriate.

- (2) The Minister must publish the terms of reference on the Ministry's Internet site.

150 Limits on effect of report and response

- (1) The Crown is not bound by a report under section 147.
- (2) Sections 147 to 149 are not intended to—
- (a) create any rights or protections in relation to any person or group of persons; or
 - (b) confer any rights or protections on any person or group of persons.

35 Section 150C amended (Setting of base milk price in way that is consistent with certain principles)

After section 150C(2), insert:

- (3) For the purposes of subsection (1)(b), any estimate of the return on capital must be made applying the capital asset pricing model.
- (4) For the purposes of subsection (3), the asset beta used in the application of the capital asset pricing model must be consistent with the estimated asset betas of other processors of dairy and other food products that are—
- (a) traded in significant quantities in globally contested markets; and
 - (b) characterised by uniform technical specifications.
- (5) In subsection (4), **asset beta** means a measurement of a firm's exposure to systematic risk where systematic risk measures the extent to which the returns on a company fluctuate relative to the equity returns in the stock market as a whole.

36 New section 150CA and cross-heading inserted

After section 150C, insert:

Farm gate milk price

150CA Provisions relating to farm gate milk price

- (1) For the purposes of this subpart, new co-op may pay a farm gate milk price that differs from the base milk price.
- (2) New co-op must publish as soon as practicable after it determines the farm gate milk price for any season, on new co-op's website in an electronic form that is publicly accessible, a notice that—
- (a) states both the farm gate milk price and the base milk price for that season; and
 - (b) explains why the farm gate milk price differs or does not differ from the base milk price (as the case may be).

37 Section 150E amended (Appointment of members of panel)

(1) After section 150E(1), insert:

(1A) New co-op must appoint 1 member of the panel who is nominated by the Minister, and the appointment must be on the same terms and conditions that apply to members appointed under subsection (1).

(2) In section 150E(3), after “subsection”, insert “(1A) or”.

38 Section 156 repealed (Gift duty and taxation in respect of Livestock Improvement Corporation Limited)

Repeal section 156.

39 New Schedule 1 inserted

Insert the Schedule 1 set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.

Part 2**Consequential and other amendments****40 Consequential amendments to principal Act**

Amend the principal Act as set out in Part 1 of Schedule 2.

41 Amendments to regulations

(1) Amend the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 as set out in Part 2 of Schedule 2.

(2) Amend the Dairy Industry Restructuring (Raw Milk) Regulations 2012 as set out in Part 3 of Schedule 2.

42 Revocation of Herd Testing Regulations 1958

The Herd Testing Regulations 1958 (SR 1958/44) are revoked.

Schedule 1
New Schedule 1 inserted

s 39

Schedule 1
Transitional, savings, and related provisions

s 5B

Part 1
Provisions relating to Dairy Industry Restructuring Amendment Act 2020

LIC

1 Employees of LIC from before restructuring under subpart 4 of Part 2

- (1) This clause applies to a person to whom section 61 applied immediately before its repeal by the Dairy Industry Restructuring Amendment Act 2020.
- (2) To avoid doubt, the repeal does not affect the person's status or rights, or terms or conditions of employment, under that section.

2 LIC to be treated as previous manager of core database

- (1) LIC must be treated as a previous manager of the core database for the purposes of this Act.
- (2) Information provided to LIC, whether before, on, or after the commencement of this clause, must be treated as information that comprises part of the core database if the information was or is provided under—
 - (a) the Herd Testing Regulations 1958 or under the terms and conditions of any licence issued under those regulations; or
 - (b) any regulations made under this Act.
- (3) Regulations applying to LIC may be made under section 65C as if LIC were replaced as manager of the core database by regulations made under section 65A (as inserted by the Dairy Industry Restructuring Amendment Act 2020).
- (4) Section 65D does not apply to regulations made under section 65C that apply to LIC.

3 Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 continue in force

- (1) The Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (the **regulations**) continue in force.

- (2) To the extent that the regulations were made under sections 62 to 65A as in force immediately before the commencement of this clause, they must be treated as having been made under sections 62 to 65 as amended by the Dairy Industry Restructuring Amendment Act 2020.
- (3) However, to the extent that the regulations apply to LIC, they must be treated as having been made under section 65C as inserted by the Dairy Industry Restructuring Amendment Act 2020.
- (4) Section 65D does not apply to the regulations referred to in subclause (3).

Levies

4 Levy payable by new co-op

Regulations made under section 134 (as replaced by section 32 of the Dairy Industry Restructuring Amendment Act 2020) apply to financial years that start on or after 1 July 2021 (and regulations may be made for that purpose under section 134 (as replaced) at any time before that date).

Changes to open entry provisions

5 Effect of changes to open entry provisions on existing shareholding farmers

- (1) The commencement of section 73 (as enacted by section 24 of the Dairy Industry Restructuring Amendment Act 2020) does not affect the ability of the Commission to receive and determine applications in respect of conduct before that commencement, or the ability of a party to a determination or the Commission to enforce a determination, and sections 120 to 133 have effect for that purpose.
- (2) An application under section 120 may not be made later than 1 year after that commencement.
- (3) The commencement of section 73 (as so enacted) does not affect the liability of a person for a contravention of subpart 5 or regulations made under this Act committed before that commencement, and sections 140 to 146 have effect for that purpose.
- (4) Proceedings for a contravention described in subclause (3) may be taken as if section 73 (as so enacted) had not been enacted.

Schedule 2

Consequential and other amendments

ss 40, 41

Part 1

Consequential amendments to principal Act

Section 47

Repeal section 47.

Section 63

In section 63(1)(b), replace “a panel” with “an Access Panel”.

In section 63(1)(c)(i), (d), (e), (g), (h), and (i) and (3), replace “panel” with “Access Panel” in each place.

In section 63(1)(f), replace “panel’s” with “Access Panel’s”.

Section 65

In section 65(a)(ii), replace “panel” with “Access Panel”.

Section 72

After section 72(10), insert:

- (11) Sections 147 to 150 provide for reports on the operation of subparts 5 and 5A of Part 2.

Section 163

In section 163, replace “65” with “65C”.

Part 2

Consequential amendments to Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001

Regulation 3

In regulation 3(1), insert in its appropriate alphabetical order:

Access Panel means the New Zealand Dairy Core Database Access Panel established by regulation 13

In regulation 3(1), revoke the definition of **manager of the core database**.

In regulation 3(1), revoke the definition of **Panel**.

After regulation 3(2)(d), insert:

- (e) manager of the core database.

Regulation 11

In regulation 11(b), replace “a Panel” with “an Access Panel”.

In regulation 11(c) and (d), replace “Panel” with “Access Panel”.

Cross-heading above regulation 13

Replace the cross-heading above regulation 13 with:

Access Panel

Regulation 13

In the heading to regulation 13, replace “**Panel**” with “**Access Panel**”.

In regulation 13(1), replace “a Panel” with “an Access Panel”.

In regulation 13(2) and (3), replace “Panel” with “Access Panel”.

Regulation 14

In the heading to regulation 14, replace “**Panel**” with “**Access Panel**”.

In regulation 14, replace “Panel” with “Access Panel”.

Regulation 15

In regulation 15, replace “Panel” with “Access Panel”.

Regulation 16

In the heading to regulation 16, replace “**Panel**” with “**Access Panel**”.

In regulation 16, replace “Panel” with “Access Panel”.

Regulation 17

In regulation 17(a), replace “Panel” with “Access Panel”.

Regulation 18

In regulation 18(1) and (2), replace “Panel” with “Access Panel” in each place.

Regulation 19

In the heading to regulation 19, replace “**Panel**” with “**Access Panel**”.

In regulation 19(1) and (3), replace “Panel” with “Access Panel”.

Regulation 20

In the heading to regulation 20, replace “**Panel**” with “**Access Panel**”.

In regulation 20(1) and (2), replace “Panel” with “Access Panel”.

Regulation 21

In the heading to regulation 21, replace “**Panel**” with “**Access Panel**”.

In regulation 21(1) and (2), replace “Panel” with “Access Panel”.

Regulation 21—*continued*

In regulation 21(2)(a) and (b), replace “Panel’s” with “Access Panel’s”.

Regulation 23

In the heading to regulation 23, replace “**Panel**” with “**Access Panel**”.

In regulation 23, replace “Panel” with “Access Panel”.

Regulation 24

In regulation 24(1)(a), replace “Panel” with “Access Panel”.

Regulation 25

In regulation 25(1)(a), replace “Panel” with “Access Panel”.

Regulation 26

In regulation 26(1)(a), replace “Panel” with “Access Panel”.

Regulation 27

In regulation 27(1), (2), (3), and (5), replace “Panel” with “Access Panel”.

Regulation 32

In regulation 32(2)(c), replace “Panel” with “Access Panel”.

Schedule 1AA

In Schedule 1AA, replace clause 4 with:

4 Transitional provision relating to decisions of Dairy Herd Improvement Tribunal

- (1) This clause applies to decisions of the Dairy Herd Improvement Tribunal that were in effect immediately before the commencement of Part 2 of Schedule 2 of the Dairy Industry Restructuring Amendment Act 2020.
- (2) The decisions remain in effect until this clause is revoked.

Schedule 4

In the Schedule 4 heading, replace “**Panel**” with “**Access Panel**”.

In Schedule 4, clauses 4, 7, and 14 to 17, replace “Panel” with “Access Panel” in each place.

In Schedule 4, cross-heading above clause 6, replace “*Panel’s*” with “*Access Panel’s*”.

In Schedule 4, clauses 7, 15(1), 16(a), and 17(1)(a), replace “Panel’s” with “Access Panel’s”.

In Schedule 4, heading to clause 14, replace “**Panel**” with “**Access Panel**”.

Schedule 5

In the Schedule 5 heading, replace “Panel” with “Access Panel”.

In Schedule 5, clauses 1 to 8, replace “Panel” with “Access Panel” in each place.

In Schedule 5, clause 8(a), replace “Panel’s” with “Access Panel’s”.

Schedule 6

In Schedule 6, form, after “manager of the core database”, insert “(or LIC)” in each place.

Part 3**Consequential and other amendments to Dairy Industry Restructuring (Raw Milk) Regulations 2012****Regulation 3**

In regulation 3(1), replace the definition of **farm gate milk price** with:

farm gate milk price has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **kilograms of milksolids** with:

kilograms of milk solids, except in Part 1A, has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **organic milk** with:

organic milk has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **own supply** with:

own supply, in relation to an independent processor,—

- (a) means raw milk collected or purchased by or on behalf of the independent processor from dairy farmers or any other source (such as new co-op, a dairy processor, or an intermediary); but
- (b) does not include milk supplied to an independent processor under section 108 of the Act or under regulation 4

In regulation 3(1), replace the definition of **raw milk** with:

raw milk has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total cost of milk** with:

total cost of milk has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total organic milk premium** with:

total organic milk premium has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total winter milk premium** with:

total winter milk premium has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **winter milk** with:

Regulation 3—*continued*

winter milk has the meaning given in section 5(1) of the Act.

Regulation 6

Replace regulation 6(3) with:

- (3) Despite subclauses (1) and (2), new co-op is not required to supply raw milk to an independent processor (other than Goodman Fielder New Zealand Limited) if,—
- (a) in any 3 consecutive seasons before 1 June 2024, the independent processor's own supply of raw milk is 30 million litres or more in each of those seasons as specified in returns provided to new co-op under regulation 18(2); or
 - (b) in any season beginning on or after 1 June 2024, the independent processor's own supply of raw milk is 30 million litres or more as specified in the returns provided to new co-op under regulation 18(2).

Regulation 7

In regulation 7(1)(a), replace “250” with “350”.

Regulation 17

Replace regulation 17 with:

- 17 Return by new co-op relating to actual supply of raw milk to independent processors**
- (1) New co-op must, no later than the first working day in July of the current season, provide a return to the chief executive stating the total quantity of raw milk it actually supplied—
- (a) to each independent processor in each month of the previous season; and
 - (b) to all independent processors for the whole of the previous season.
- (2) For the purposes of subclause (1)(a) and (b), new co-op must specify in the return the total quantity of raw milk supplied by new co-op under these regulations (including raw milk supplied at an agreed price under regulation 20(2)).

Regulation 19

In regulation 19(1), delete “(other than Goodman Fielder New Zealand Limited)”.

Regulation 20

In regulation 20(4), after “**default milk price**”, insert “, in relation to an independent processor other than Goodman Fielder New Zealand Limited,”.

After regulation 20(4), insert:

Regulation 20—*continued*

- (5) In subclause (3), **default milk price**, in relation to Goodman Fielder New Zealand Limited, means the default milk price as defined in subclause (4) plus 10 cents per kilogram of milk solids.

New cross-heading above regulation 23A inserted

Before regulation 23A, insert:

Returns of milk solids collected from dairy farmers

Regulation 23B

Revoke regulation 23B(2).

New regulations 23D to 23F and cross-headings inserted

After regulation 23C, insert:

Returns of raw milk bought or sold by independent processors

23D Independent processors must provide return

- (1) Each independent processor must, in accordance with this Part, provide a return of raw milk bought from, or sold to, another independent processor in each season.
- (2) The return must be provided to the chief executive within 30 days after the end of the season.

23E Required information

- (1) The return of an independent processor for a season must specify—
- (a) the total amount (in kilograms) of milk solids that the processor bought from, or sold to, another independent processor during the season; and
 - (b) the part of that total amount (if any) that the processor bought or sold under the 20% rule.
- (2) In this regulation,—
- 20% rule** means the entitlement to supply to independent processors up to 20% of weekly production under section 108 of the Act
- processor**—
- (a) means an independent processor that is required to provide a return; but
 - (b) does not include an independent processor for a season if regulation 23F applies in respect of that season.

New regulations 23D to 23F and cross-headings inserted—continued**23F Independent processor that collects less than 2,000 kilograms of milk solids**

- (1) If the total amount of milk solids that an independent processor collects from dairy farmers and any other source is less than 2,000 kilograms during a season, the return for that season must indicate that fact.
- (2) Regulation 23E does not apply to that return.

*Certifiers for organic milk***23G Certifiers**

Raw milk may be certified as organic milk by—

- (a) Biogro NZ Limited;
- (b) the Bio Dynamic Farming & Gardening Association in New Zealand Incorporated;
- (c)ASUREQuality Limited.

Legislative history

22 August 2019	Introduction (Bill 166–1)
27 August 2019	First reading and referral to Primary Production Committee
20 March 2020	Reported from Primary Production Committee (Bill 166–2)
21 July 2020	Second reading
22 July 2020	Committee of the whole House, third reading
6 August 2020	Royal assent

This Act is administered by the Ministry for Primary Industries.