

Dairy Industry Restructuring Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

This Bill amends the Dairy Industry Restructuring Act 2001 (the **DIRA**) to prevent the expiry of certain provisions in May 2018.

Subpart 5 of Part 2 of the DIRA regulates the activities of Fonterra to promote the efficient operation of dairy markets in New Zealand, and subpart 5A of Part 2 provides for the monitoring of Fonterra's farm gate milk price.

The DIRA regulatory provisions on Fonterra in subparts 5 and 5A of Part 2 provide a means of promoting efficiency that would ordinarily be provided through competitive market pressures. The need for subparts 5 and 5A is contingent on sufficient competition developing in New Zealand dairy markets, with competitive pressure removing the need for the DIRA regulatory provisions.

An automatic expiry of key provisions in subpart 5, and expiry of all of subpart 5A, in relation to the South Island was triggered in 2015. A statutorily required report on the state of competition, prepared by the Commerce Commission, found that competition is not sufficient and that subparts 5 and 5A should remain in place.

To ensure the efficient operation of dairy markets in New Zealand, the Bill prevents parts of subpart 5, and all of subpart 5A, from expiring in relation to the South Island and removes the automatic expiry provisions, the market share thresholds that would trigger them, and the consequential requirement for a review of the state of competition.

Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2017&no=11>.

Regulatory impact assessment

The Ministry for Primary Industries produced a regulatory impact assessment on 7 September 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of the regulatory impact assessment can be found at—

- <http://www.mpi.govt.nz/dmsdocument/14491-dairy-industry-restructuring-act-regulatory-impact-statement>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause, which provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 identifies the principal Act that is being amended: the Dairy Industry Restructuring Act 2001.

Clause 4 repeals sections 147 to 150 to prevent key provisions of the principal Act from ceasing to apply to the South Island on 31 May 2018 and to prevent those provisions from expiring altogether.

Clauses 5 to 8 consequentially amend the principal Act and consequentially revoke the Dairy Industry Restructuring (Subparts 5 and 5A of Part 2 of Act Disapplied to South Island) Order 2016.

Hon Damien O'Connor

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Dairy Industry Restructuring Amendment Act **(No 2) 2017**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

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

Part 1**Repeal of provisions that provide for expiry of subparts 5 and 5A of Part 2** 5**4 Sections 147 to 150 and cross-heading repealed**

Repeal sections 147 to 150 and the cross-heading above section 147.

Part 2**Consequential amendments and revocation** 10**5 Section 3 repealed (Expiry)**

Repeal section 3.

6 Section 72 amended (Overview)

Repeal section 72(11) and (12).

7 Section 118 amended (Offences) 15

(1) In section 118(1)(b), delete “; or”.

(2) Repeal section 118(1)(c).

8 Revocation of Dairy Industry Restructuring (Subparts 5 and 5A of Part 2 of Act Disapplied to South Island) Order 2016

The Dairy Industry Restructuring (Subparts 5 and 5A of Part 2 of Act Disapplied to South Island) Order 2016 (LI 2016/129) is revoked. 20