

Reprint  
as at 4 June 2015



**Dairy Industry (Herd Testing and New Zealand Dairy  
Core Database) Regulations 2001**  
(SR 2001/373)

Silvia Cartwright, Governor-General

**Order in Council**

At Wellington this 3rd day of December 2001

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to sections 62 to 65 and 69 of the Dairy Industry Restructuring Act 2001, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Agriculture, makes the following regulations.

**Contents**

	Page
1 Title	3
2 Commencement	3
3 Interpretation	4
3A Transitional, savings, and related provisions	5

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry for Primary Industries.**

**Part 1**  
**Herd testing and provision of information to core database**

*Preliminary*

4	Overview	5
	<i>Restrictions on herd testing</i>	
5	Restrictions on herd testing	5
6	Terms and conditions of regulated herd testing	6
	<i>Supply of data to manager of core database</i>	
7	Supply of data to manager of core database	6
8	Manager of core database must enter information into database	7
	<i>Conditions relating to herd testing service that must be offered by LIC</i>	
	<i>[Revoked]</i>	
9	LIC must offer nationwide herd testing service and uniform prices within regions <i>[Revoked]</i>	7
	<i>Standard for herd testing</i>	
10	Dairy herd testing standard	8

**Part 2**  
**Access to data in core database**

*Preliminary*

11	Overview	8
	<i>No exclusive access arrangements</i>	
12	No exclusive access arrangements	8
	<i>Panel</i>	
13	Establishment of Panel	9
14	Functions of Panel	9
15	Powers	9
16	Membership of Panel	9
17	Applications for access	9
18	Criteria for granting access	10
19	Panel may set terms and conditions of access	10
20	Determination by Panel concerning access	10
21	Further provisions relating to Panel	10
	<i>Restrictions on LIC and manager of core database in relation to core database</i>	
22	Manager must retain data	11
23	LIC and manager of core database must comply with Panel decisions	11

24	Restrictions on LIC and manager of core database making data available	11
25	Confidentiality	12

**Part 3**

**Publication, audit, offences, and transition**

26	Manager must publish information relating to procedures and pricing methodologies	12
27	Audit of LIC and manager of core database for compliance with Part 2 and this Part	13
28	Powers of auditor	13
29	Statutory declaration under section 66(4) of Act	14
30	Continued application and amendment of Herd Testing Regulations 1958	14
31	Transitional provisions <i>[Revoked]</i>	15
32	Offences	15

**Schedule 1AA**

**Transitional, savings, and related provisions**

**Schedule 1**

**Certification bodies and certification of herd testers**

**Schedule 2**

**Information to be supplied to manager of core database**

**Schedule 3**

**Regions for LIC charges**

*[Revoked]*

**Schedule 4**

**Membership of Panel**

**Schedule 5**

**Procedure of Panel**

**Schedule 6**

**Form of statutory declaration**

**Regulations**

**1 Title**

These regulations are the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001.

**2 Commencement**

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

### 3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

**Act** means the Dairy Industry Restructuring Act 2001

**certification body** means a person or body approved by the chief executive under Schedule 1

**certified herd tester** has the meaning given by regulation 5(2)

**dairy herd testing standard** means New Zealand Standard NZS 8100 Dairy Herd Testing, as may be amended from time to time

**LIC** means Livestock Improvement Corporation Limited

**manager of the core database** means the dairy industry entity nominated by the Crown under section 65A(1) of the Act to manage the core database

**Ministry** means the department of State that is, with the authority of the Prime Minister, responsible for the administration of these regulations

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

**publish** means to publish in the *Gazette* and on the manager of the core database's website in an electronic form that is publicly accessible

**regulated herd testing** means the operation of testing the milk of milk cows in any 2 or more herds that are the property of different persons for the purpose of recording the production of individual cows within those herds in respect of milk or components of milk.

- (2) The following terms are defined in section 5 of the Act:

(a) associated person:

(b) chief executive:

(c) core database:

(d) herd testing:

(e) *[Revoked]*

Regulation 3(1) **approved standard**: revoked, on 26 July 2002, by regulation 3(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 3(1) **dairy herd testing standard**: substituted, on 21 June 2007, by regulation 4 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2007 (SR 2007/118).

Regulation 3(1) **LIC**: amended, on 2 October 2014, by regulation 4(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 3(1) **manager of the core database**: inserted, on 2 October 2014, by regulation 4(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 3(1) **publish**: amended, on 2 October 2014, by regulation 4(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 3(1) **standard**: revoked, on 26 July 2002, by regulation 3(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 3(2): substituted, on 26 July 2002, by regulation 3(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 3(2)(e): revoked, on 2 October 2014, by regulation 4(4) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

### **3A Transitional, savings, and related provisions**

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

Regulation 3A: inserted, on 2 October 2014, by regulation 5 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **Part 1**

### **Herd testing and provision of information to core database**

#### *Preliminary*

#### **4 Overview**

This Part provides for—

- (a) the prohibition of regulated herd testing except by certified herd testers; and
- (b) the terms and conditions of regulated herd testing; and
- (c) the information that must be supplied to the manager of the core database for entering into the core database.
- (d) *[Revoked]*

Regulation 4(c): replaced, on 2 October 2014, by regulation 6 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 4(d): revoked, on 2 October 2014, by regulation 6 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

#### *Restrictions on herd testing*

#### **5 Restrictions on herd testing**

- (1) No person may undertake regulated herd testing unless the person is a certified herd tester.
- (2) A **certified herd tester** is a person who is certified as a herd tester under Schedule 1.
- (3) Subclause (1) does not apply to a person who undertakes herd testing for the purpose of determining only the somatic cell count of cows in a herd.
- (4) Subclause (1) does not apply to a laboratory when it analyses milk samples on behalf of a certified herd tester for the purpose of regulated herd testing.

- (5) Subclause (1) does not apply to a person who undertakes herd testing for the purpose of research only.
- (6) A person who undertakes herd testing for the purpose of research only, on a herd that the person does not own, must ensure that the herd is tested by a certified herd tester in the same season as the season in which the testing for research is done.

Regulation 5(4): added, on 26 July 2002, by regulation 4 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 5(5): added, on 7 August 2003, by regulation 3 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2003 (SR 2003/156).

Regulation 5(6): added, on 7 August 2003, by regulation 3 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2003 (SR 2003/156).

## **6 Terms and conditions of regulated herd testing**

- (1) Every certified herd tester must—
  - (a) supply herd testing data to the manager of the core database as required by regulation 7; and
  - (b) ensure that the equipment and methods used for sampling, measuring, and analysing milk and supplying data to the manager of the core database meet the operating and accuracy standards specified in the dairy herd testing standard.
- (2) Continuation of certification as a herd tester is subject to compliance with subclause (1).

Regulation 6(1)(a): amended, on 2 October 2014, by regulation 7 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 6(1)(b): amended, on 2 October 2014, by regulation 7 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 6(1)(b): amended, on 26 July 2002, by regulation 5 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

### *Supply of data to manager of core database*

Heading: amended, on 2 October 2014, by regulation 8 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **7 Supply of data to manager of core database**

- (1) Every certified herd tester must collect and supply to the manager of the core database all of the herd testing data specified in Schedule 2 relating to its herd testing activities in accordance with the requirements for data set out in the dairy herd testing standard.
- (2) The data must be supplied in a format that is compatible with the manager of the core database's systems for entering data into the core database.
- (3) The data must be supplied to the manager of the core database no later than 15 working days after it is collected by the certified herd tester.

- (4) The requirement in subclause (1) may be modified by agreement between the certified herd tester, the manager of the core database, and the owner of the dairy herd, if that agreement provides for the manager of the core database to be supplied with some or all of the data by another means.
- (5) Subclause (1) does not apply to data relating to herd testing activities for the purpose of determining only the somatic cell count of cows in a herd.

Regulation 7 heading: amended, on 2 October 2014, by regulation 9(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 7(1): substituted, on 26 July 2002, by regulation 6 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 7(1): amended, on 2 October 2014, by regulation 9(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 7(2): substituted, on 26 July 2002, by regulation 6 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 7(2): amended, on 2 October 2014, by regulation 9(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 7(3): amended, on 2 October 2014, by regulation 9(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 7(4): amended, on 2 October 2014, by regulation 9(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **8 Manager of core database must enter information into database**

The manager of the core database must enter all data provided to it under these regulations into the database unless it is satisfied that the data, or the format in which it has been supplied, does not comply with the dairy herd testing standard or these regulations.

Regulation 8 heading: amended, on 2 October 2014, by regulation 10(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 8: amended, on 2 October 2014, by regulation 10(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 8: amended, on 26 July 2002, by regulation 7 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

### *Conditions relating to herd testing service that must be offered by LIC*

*[Revoked]*

Heading: revoked, on 2 October 2014, by regulation 11 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **9 LIC must offer nationwide herd testing service and uniform prices within regions**

*[Revoked]*

Regulation 9: revoked, on 2 October 2014, by regulation 12 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

*Standard for herd testing***10 Dairy herd testing standard**

Certified herd testers must comply with the dairy herd testing standard.

Regulation 10: substituted, on 26 July 2002, by regulation 8 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**Part 2****Access to data in core database***Preliminary***11 Overview**

This Part—

- (a) prohibits LIC and the manager of the core database from entering into exclusive arrangements for access to data in the core database:
- (b) provides for the establishment of a Panel to—
  - (i) decide applications for access to data in the core database; and
  - (ii) determine other circumstances in which the manager of the core database must make data in the core database available:
- (c) sets out the criteria on which the Panel must or may grant an application for access or may make a determination regarding access:
- (d) allows the Panel to set terms and conditions on which data in the core database must be made available:
- (e) places other restrictions on LIC and the manager of the core database in relation to the core database.

Regulation 11(a): amended, on 2 October 2014, by regulation 13(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 11(b)(ii): amended, on 2 October 2014, by regulation 13(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 11(e): amended, on 2 October 2014, by regulation 13(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

*No exclusive access arrangements***12 No exclusive access arrangements**

Neither LIC nor the manager of the core database may enter into exclusive arrangements for access to data in the core database.

Regulation 12: amended, on 2 October 2014, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).



## *Panel*

### **13 Establishment of Panel**

- (1) This regulation establishes a Panel to be called the New Zealand Dairy Core Database Access Panel.
- (2) The Panel is a body corporate with perpetual succession.
- (3) The Panel is not a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

Regulation 13(3): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

### **14 Functions of Panel**

The functions of the Panel are to—

- (a) decide applications for access to data in the core database; and
- (b) determine other circumstances in which the manager of the core database must make data in the core database available (including, for example, at the request of persons who have supplied the information from which that data results); and
- (c) appoint an auditor under regulation 27.

Regulation 14(b): amended, on 2 October 2014, by regulation 15 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

### **15 Powers**

For the purpose of carrying out its functions, the Panel has and may exercise full rights, powers, and privileges.

### **16 Membership of Panel**

The Panel comprises 3 members appointed by the Minister for Primary Industries, of whom—

- (a) 2 members must be recommended by DairyNZ Incorporated; and
- (b) 1 member must have, in the Minister's opinion, expertise in competition policy.

Regulation 16: amended, on 2 October 2014, by regulation 16(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 16(a): amended, on 2 October 2014, by regulation 16(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

### **17 Applications for access**

An application for access to information in the core database must be—

- (a) made in the manner required by the Panel; and
- (b) accompanied by a fee of \$200 (which is inclusive of goods and services tax).

**18 Criteria for granting access**

- (1) The Panel must grant an application for access to data in the core database only if it is satisfied that to do so is likely to be beneficial to the New Zealand dairy industry.
- (2) If the Panel is not satisfied that granting an application for access to data in the core database is likely to be beneficial to the New Zealand dairy industry, the Panel may grant an application for access to data in the core database only if the Panel is satisfied that to do so would not be harmful to the New Zealand dairy industry.

**19 Panel may set terms and conditions of access**

- (1) The Panel may set terms and conditions (excluding the manager of the core database's charges) on which data in the core database must be made available, including the form in which it must be made available and the time limits within which it must be made available.
- (2) LIC or the manager of the core database may require an applicant for access to the data in the core database to execute an agreement with LIC or the manager (as the case may be) before access is granted.
- (3) An agreement required by LIC or the manager of the core database under subclause (2) must contain the terms and conditions set by the Panel under subclause (1).

Regulation 19(1): amended, on 2 October 2014, by regulation 17(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 19(2): replaced, on 2 October 2014, by regulation 17(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 19(3): amended, on 2 October 2014, by regulation 17(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

**20 Determination by Panel concerning access**

- (1) The Panel may, either on its own initiative or at the request of a person, determine circumstances in which the manager of the core database must make data in the core database available.
- (2) The Panel may make a determination under subclause (1) only if it is satisfied that to do so is likely to be beneficial to the New Zealand dairy industry.

Regulation 20(1): amended, on 2 October 2014, by regulation 18 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

**21 Further provisions relating to Panel**

- (1) Schedules 4 and 5 apply to the Panel.
- (2) The Panel must provide—
  - (a) LIC with a written copy of the Panel's decisions and determinations concerning access to the database, so far as they apply to LIC:

- (b) the manager of the core database with a written copy of the Panel's decisions and determinations concerning access to the database, so far as they apply to the manager.

Regulation 21(2): replaced, on 2 October 2014, by regulation 19 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

*Restrictions on LIC and manager of core database in relation to core database*

Heading: replaced, on 2 October 2014, by regulation 20 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

**22 Manager must retain data**

- (1) The manager of the core database must retain the following information in electronic form:
  - (a) all data provided to LIC under the Herd Testing Regulations 1958 and held by LIC in electronic form at the commencement of these regulations; and
  - (b) all data provided to LIC after the commencement of these regulations under the Herd Testing Regulations 1958; and
  - (c) all data provided to LIC or to the manager under these regulations.

- (2) The manager of the core database must retain the data so that it is readily retrievable.

Regulation 22: replaced, on 2 October 2014, by regulation 20 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

**23 LIC and manager of core database must comply with Panel decisions**

LIC and the manager of the core database must comply with every decision of the Panel in relation to the supply of data in the core database (subject to payment of any charge for access).

Regulation 23: replaced, on 2 October 2014, by regulation 20 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

**24 Restrictions on LIC and manager of core database making data available**

- (1) Neither LIC nor the manager of the core database may make data in the core database available except—
  - (a) in accordance with a decision or determination of the Panel; or
  - (b) to the owner or person in charge of the dairy herd to which the data relates; or
  - (c) to a person authorised to receive the data by the owner or person in charge of the dairy herd to which the data relates.
- (2) A person referred to in subclause (1)(b) or (c) may request the manager of the core database to provide data in the core database, and the entity concerned must provide the requested data subject to payment of any reasonable charge for access set by that entity.

- (3) Subclause (1) does not prevent LIC from using data in the core database for the purposes of its own business. However, if LIC proposes to use data in any partnership or joint venture or other arrangement with any other person, subclause (1) applies to access to the information for that purpose.

Regulation 24: replaced, on 2 October 2014, by regulation 20 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## 25 Confidentiality

- (1) LIC and the manager of the core database must keep confidential, and must not disclose to any other person,—
- (a) any information contained in an application to the Panel in relation to the supply of data in the core database:
  - (b) the fact that an application has been made:
  - (c) the fact that any data in the core database has been made available as a result of an application.
- (2) In subclause (1), **any other person** includes any person who is both—
- (a) a director, employee, contractor, or associated person of LIC or of the manager; and
  - (b) a person involved in any activity of LIC's or of the manager's, other than the operation of the database of which the core database forms a part.
- (3) Subclause (1) applies subject to any agreement that an applicant may reach with LIC or the manager of the core database in relation to their application.

Regulation 25(1): amended, on 2 October 2014, by regulation 21(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 25(2): replaced, on 4 June 2015, by regulation 4 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2015 (LI 2015/80).

Regulation 25(3): amended, on 2 October 2014, by regulation 21(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## Part 3

### Publication, audit, offences, and transition

#### 26 Manager must publish information relating to procedures and pricing methodologies

- (1) The manager of the core database must publish the manager's—
- (a) procedures for complying with decisions of the Panel, including maximum time periods for the provision of data; and
  - (b) procedures for complying with regulation 25; and
  - (c) pricing methodology or methodologies used to set charges for access to data in the core database (including charges that the manager makes to businesses it owns for access to that data), and the prices resulting from applying those methodologies.

- (2) The manager of the core database must publish the information required by subclause (1) as soon as practicable after 1 June in each year.
- (3) The manager of the core database must ensure that the manager makes available, in the following ways, information that the manager is required by these regulations to publish:
  - (a) by making copies of the information available for inspection, during ordinary office hours, at the manager's office; and
  - (b) by providing the information to a person who requests it, in whichever of the following ways the person prefers:
    - (i) by post; or
    - (ii) for collection, during ordinary office hours, from the manager's office.

Regulation 26: replaced, on 2 October 2014, by regulation 22 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **27 Audit of LIC and manager of core database for compliance with Part 2 and this Part**

- (1) The Panel must appoint an auditor to audit LIC's and the manager of the core database's compliance with Part 2 and this Part no later than 31 May in each year, and may reappoint that auditor.
- (2) The Panel must set the terms and conditions of the auditor's appointment.
- (3) The entity that is audited (and not the Panel) must pay all of the auditor's costs.
- (4) The auditor must audit LIC's and the manager of the core database's compliance with Part 2 and this Part as soon as practicable after 31 May in each year.
- (5) The auditor must provide its report to the chief executive and the Panel.

Regulation 27 heading: amended, on 2 October 2014, by regulation 23(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 27(1): amended, on 2 October 2014, by regulation 23(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 27(3): amended, on 2 October 2014, by regulation 23(3) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 27(4): amended, on 2 October 2014, by regulation 23(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **28 Powers of auditor**

- (1) The directors of LIC or of the manager of the core database must ensure that the auditor has access at all times to the records and other documents of the entity and of any subsidiaries of the entity for the purpose of carrying out the audit.
- (2) The auditor is entitled to require from a director or an employee of LIC or of the manager of the core database any information and explanations relating to

the entity and its subsidiaries that he or she thinks necessary for the effective carrying out of the audit.

- (3) If the board of LIC or of the manager of the core database fails to comply with subclause (1), every director commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3A) A director or employee who fails to comply with subclause (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3B) It is a defence to an employee charged with an offence against subclause (3A) if he or she proves that—
  - (a) he or she did not have the information required in his or her possession or under his or her control; or
  - (b) because of the position occupied by him or her or the duties assigned to him or her, he or she was unable to give the explanations required.
- (4) The audit report must state whether the auditor has had access to the accounting records and other documents, and obtained all the information and explanations, that he or she has required.

Compare: 1993 No 105 s 206(3)–(5)

Regulation 28(1): replaced, on 2 October 2014, by regulation 24(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 28(2): replaced, on 2 October 2014, by regulation 24(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 28(3): substituted, on 26 July 2002, by regulation 10 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 28(3): amended, on 2 October 2014, by regulation 24(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 28(3A): inserted, on 26 July 2002, by regulation 10 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 28(3B): inserted, on 26 July 2002, by regulation 10 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

Regulation 28 compare note: added, on 26 July 2002, by regulation 10 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

## **29 Statutory declaration under section 66(4) of Act**

- (1) Information supplied to the chief executive under section 66(1) or (2) of the Act must be verified by statutory declaration in the form specified in Schedule 6.
- (2) The statutory declaration referred to in subclause (1) must be made by a director or officer of LIC or by a director or an officer of the manager of the core database, whichever is appropriate in the circumstances.

Regulation 29(2): amended, on 2 October 2014, by regulation 25 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

## **30 Continued application and amendment of Herd Testing Regulations 1958**

- (1) The Herd Testing Regulations 1958 (SR 1958/44) continue to apply.

- (2) *Amendment(s) incorporated in the regulations.*
- (3) *[Revoked]*
- (4) Licence to Conduct Herd Testing No. 2001/02 is amended by—
  - (a) omitting from clause (1) all of the words from “initial testing” through to “provided by the applicant”, and substituting the words “testing of 12 herds”; and
  - (b) omitting clauses (2) and (4); and
  - (c) omitting from clause (3) the expression “NZDB” and substituting the words “the chief executive of the Ministry of Agriculture and Forestry”.
- (5) *[Expired]*
- (6) *[Expired]*
- (7) The Board must not amend or revoke a current notice in the *Gazette* that relates to herd testing licences and the National Dairy Herd Improvement Database without the consent of the Minister.
- (8) The gazette notice published in the *Gazette* on 30 September 1999, page 3306, *Access Code for the National Dairy Improvement Database*, is revoked.
- (9) Subclauses (5) and (6) expire 9 months after the commencement of these regulations.

Regulation 30(3): revoked, on 2 October 2014, by regulation 26 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Regulation 30(5): expired, on 3 October 2002, by regulation 30(9).

Regulation 30(6): expired, on 3 October 2002, by regulation 30(9).

### **31 Transitional provisions**

*[Revoked]*

Regulation 31: revoked, on 2 October 2014, by regulation 27 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

### **32 Offences**

- (1) Every person commits an offence, and is liable on conviction to a fine not exceeding \$20,000, who contravenes any of the following regulations:
  - (a) regulation 5(1):
  - (b) regulation 6(1):
  - (c) regulation 7(1) to (3).
- (2) LIC and the manager of the core database each commits an offence, and is liable on conviction to a fine not exceeding \$20,000, if the entity contravenes any of the following regulations (so far as they apply to the entity):
  - (a) regulation 12 (no exclusive access arrangements):
  - (b) regulation 22 (manager must retain data):

- (c) regulation 23 (LIC and manager of core database must comply with Panel decisions):
- (d) regulation 24 (restrictions on LIC and manager of core database making data available):
- (e) regulation 25(1) (confidentiality).

Regulation 32(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Regulation 32(2): replaced, on 2 October 2014, by regulation 28 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).



## Schedule 1AA

### Transitional, savings, and related provisions

r 3A

Schedule 1AA: inserted, on 2 October 2014, by regulation 29 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

#### *Provisions relating to transfer of core database from LIC to manager of core database*

#### **1 Application of clauses 2 and 3**

Despite regulation 2 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014, clauses 2 and 3 apply if LIC does not transfer a copy of the core database to the manager of the core database before the commencement of those regulations.

#### **2 Transitional provision to apply until core database transferred from LIC to manager of core database**

If this clause applies, these regulations continue to apply in relation to the core database until the transfer occurs as if regulations 4(1) and (2), 6 to 28, and 30 to 32 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 had not come into force.

#### **3 Requirements relating to transfer of core database**

- (1) If this clause applies, the provisions in subclauses (2) to (4) apply.
- (2) When the core database is ready to be transferred, the manager of the core database must notify the Minister of that fact.
- (3) When the Minister is satisfied that the manager is ready to take on the responsibility of managing the core database and that the transfer can proceed, the Minister must notify the transfer of the core database in the *Gazette*.
- (4) The transfer is treated as having occurred on the date of the notification in the *Gazette*.

#### *Transitional provisions formerly in regulation 31*

#### **4 Transitional provisions relating to applications and decisions**

- (1) Every application to the Dairy Herd Improvement Tribunal for access to data in the core database made before the commencement of these regulations that has not been determined may be determined by the Panel.
- (2) Every decision by the Tribunal granting access to data in the core database made before the commencement of these regulations that was in force at that date remains in effect as if these regulations had not been made.

- (3) Every application to the New Zealand Dairy Board for a licence under regulation 3 of the Herd Testing Regulations 1958 that remains unresolved is cancelled.

*Transitional provision relating to Gazette notice*

**5** ***Gazette notice***

In the notice published in the *Gazette* on 17 August 2000, at page 2272 (as amended by regulation 30),—

- (a) references to the Database Manager must be read as references to the manager of the core database; and
- (b) references to the Ministry must be read as references to the Ministry for Primary Industries.

## Schedule 1

### Certification bodies and certification of herd testers

rr 3(1), 5(2)

#### *Approval of persons to issue certifications as herd testers*

#### **1 Chief executive may approve certification bodies**

- (1) The chief executive may, on the application of any person or body, approve that person or body as a certification body that may certify persons who wish to undertake herd testing.
- (2) The chief executive may at any time revoke an approval given under this clause.

#### **2 Duties of certification bodies**

In undertaking its functions under these regulations, a certification body has the following duties:

- (a) it must assess applications from persons who want to become certified herd testers against the requirements of the dairy herd testing standard:
- (b) it must ensure that all herd testers certified by it comply with the requirements for certification:
- (c) it must implement a programme of auditing certified herd testers certified by it to ensure that they continue to comply with the requirements for certification:
- (d) it must ensure that it is adequately resourced and that systems are maintained to ensure that its functions under these regulations are carried out properly.

Schedule 1 clause 2(a): amended, on 26 July 2002, by regulation 11 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

#### *Certification of herd testers*

#### **3 Application for certification**

A certification body may, on the application of any person or body, certify that person or body as a certified herd tester.

#### **4 Criteria for certification**

A certification body must not grant certification to an applicant unless the certification body is satisfied that the applicant has the necessary competencies, capacity, and capability to undertake herd testing in compliance with the dairy herd testing standard.

Schedule 1 clause 4: amended, on 26 July 2002, by regulation 11 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**5 Revocation of certification**

- (1) Certification may be revoked by—
  - (a) the certification body that granted the certification; or
  - (b) the chief executive.
- (2) Certification may be revoked only if the certification body or chief executive is satisfied that the certified herd tester is failing, or has failed, to comply with the dairy herd testing standard or these regulations and the failure is of such a nature that the certified herd tester's certification should be revoked.
- (3) The certification body or the chief executive, as the case may be, may not withdraw certification unless the certification body or chief executive has first given the certified herd tester concerned a reasonable opportunity to be heard.

Schedule 1 clause 5(2): amended, on 26 July 2002, by regulation 11 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**6 Certification body must notify chief executive of grant and revocation of certification**

- (1) Every certification body must notify the chief executive when it grants or revokes certification under these regulations.
- (2) Notifications must be given in the manner notified by the chief executive to the certification body from time to time.
- (3) Every notification must be given within 7 days of the grant or revocation to which it relates.

**7 Expiry of certification**

A certification under this schedule expires 3 years after the date on which it is granted, but may be renewed if the criteria for certification are met.

Schedule 1 clause 7: amended, on 21 June 2007, by regulation 5 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2007 (SR 2007/118).

*Record keeping***8 Chief executive must keep lists of certification bodies and certified herd testers**

- (1) The chief executive must cause to be kept and maintained a list of—
  - (a) every certification body approved by the chief executive; and
  - (b) every certified herd tester notified to the chief executive under clause 6.
- (2) The purpose of the list is—
  - (a) to enable members of the public to know who is approved as a certification body;
  - (b) to enable members of the public to know who are certified herd testers:

- (c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under these regulations.
- (3) The chief executive must—
  - (a) make the list available for public inspection, without fee, at reasonable hours at the head office of the Ministry; and
  - (b) supply to any person, on request and on payment of a reasonable charge, a copy of the list.
- (4) The list may be kept in the manner that the chief executive thinks fit, including on the Ministry's website.

## Schedule 2

### Information to be supplied to manager of core database

r 7(1)

Schedule 2: substituted, on 26 July 2002, by regulation 12 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

#### Key data

Farm location

Herd number

Participant code

#### Static data

Unique animal identifier

Sire official indicator

Sire

Genetic dam

Sex

Date of birth

Date of birth confidence indicator

Breed

Breed 16ths

#### Event data

Herd management number

Herd management number start date

Herd management number end date

Date animal entered herd

Date animal exits herd

Animal fate

Cause of fate

Calving date

Abnormal calving circumstances

Calving assistance

Calf number within parturition

Fate of calf

Comment code

Date of mating

Mating type

Mating sire

Embryo implant serial number

Embryo implant date

Embryo donor

Embryo sire

Embryo recipient

Drying off date

Drying off reason

**Production data**

Herd test date

Abnormal test code

PM milk volume

AM milk volume

Fat percentage

Protein percentage

Somatic cell count

Average number of milkings

Pre-test milking date stamp

Test 1 date stamp

Test 2 date stamp

Schedule 2 heading: amended, on 2 October 2014, by regulation 30 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Schedule 2 **Event data**: amended, on 21 June 2007, by regulation 6(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2007 (SR 2007/118).

Schedule 2 **Production data**: amended, on 21 June 2007, by regulation 6(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2007 (SR 2007/118).

**Schedule 3**  
**Regions for LIC charges**

*[Revoked]*

r 9(2)(b)

Schedule 3: revoked, on 2 October 2014, by regulation 31 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).



## Schedule 4 Membership of Panel

r 21(1)

### *Member's appointments*

#### **1 Method of appointment**

Every member is appointed by notice in writing to the member.

#### **2 When appointment takes effect**

Every member takes office from the date stated in the notice of appointment.

### *Term of office*

#### **3 Term of office**

- (1) Except as otherwise provided in this schedule, a member—
  - (a) holds office for a term not exceeding 3 years; and
  - (b) may be reappointed; and
  - (c) continues in office (unless the member resigns or is removed from office) until the member is reappointed or the member's successor is appointed.
- (2) A member's term of office referred to in subclause (1)(a) must be stated in the notice of appointment.

### *Resignation and removal of members*

#### **4 Resignation**

A member of the Panel may, at any time, resign from office by written notice given to the Minister.

#### **5 Removal from office**

- (1) A member may, at any time, be removed from office by written notice from the Minister.
- (2) A member is not entitled to compensation, on any basis, for removal from office under subclause (1).

### *Vacancies in Panel's membership*

#### **6 Position if vacancy in membership**

- (1) If a member, for any reason, ceases to hold office as a member, the Minister may appoint another person to act as a member.
- (2) A member who is appointed under subclause (1) is appointed for the residue of the term for which the vacating member was appointed.

**7 Effect of vacancy in membership**

The functions, duties, and powers of the Panel are not affected by any vacancy in the Panel's membership.

*Chairperson and deputy chairperson***8 Appointment**

- (1) The Minister may appoint one of the members as the chairperson and another member as the deputy chairperson.
- (2) However, no person may, at the same time, hold the office both of chairperson and deputy chairperson.

**9 Term of office**

Every person appointed as chairperson or deputy chairperson holds that office until the person—

- (a) resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to be a member.

**10 Resignation**

A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice given to the Minister.

**11 Appointment of new chairperson or deputy chairperson**

If the chairperson or deputy chairperson ceases to be the chairperson or deputy chairperson, the Minister may appoint an existing member or a new member as the chairperson or deputy chairperson.

**12 Exercise of chairperson's functions, duties, and powers during vacancy**

- (1) During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, duties, and powers of the chairperson, the deputy chairperson has and may exercise all of the functions, duties, and powers of the chairperson.
- (2) No acts done by the deputy chairperson acting as the chairperson may, in any proceedings, be questioned on the grounds that the occasion for the deputy chairperson so acting had not arisen or had ceased.

*Remuneration***13 Remuneration**

The members are to be paid the remuneration by way of fees, allowances, or expenses that is determined by the Minister.

*Protections from liability of members*

Heading: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**14 Protections for members from liabilities of Panel**

A member is not liable for any liability of the Panel by reason only of being a member.

Schedule 4 clause 14: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**15 Immunity of members from civil liability to third parties**

- (1) A member is not liable to any person (other than the Panel) for any act or omission by him or her in the performance or intended performance of the Panel's functions, unless it was done or omitted to be done in bad faith.
- (2) The Panel is liable for any act or omission for which, but for this section, a member would have been liable to a person.

Schedule 4 clause 15: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**16 Indemnity for members for costs from civil and criminal proceedings**

The Panel may indemnify a member for costs incurred by him or her in a proceeding—

- (a) that relates to acts or omissions by him or her in good faith in the performance or intended performance of the Panel's functions; and
- (b) in which judgment is given in his or her favour, in which he or she is acquitted, or that is discontinued.

Schedule 4 clause 16: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**17 Insurance for members**

- (1) The Panel may effect insurance for a member in relation to—
  - (a) liability for any act or omission in the performance or intended performance of the Panel's functions; and
  - (b) costs incurred in any proceeding relating to that liability.
- (2) However, the insurance may cover criminal liability or criminal proceedings only if the member is acquitted.

Schedule 4 clause 17: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**18 Definitions for protections from liability**

In clauses 14 to 17,—

**effect insurance** includes pay, whether directly or indirectly, the costs of the insurance

**indemnify** includes relieve or excuse from liability, whether before or after the liability arises

**member** includes a former member.

Schedule 4 clause 18: added, on 26 July 2002, by regulation 14 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

## Schedule 5 Procedure of Panel

r 21(1)

### *General*

#### **1 Procedure generally**

Except as otherwise provided in these regulations, the Panel may regulate its own procedure.

### *Meetings*

#### **2 Times and places of meetings**

- (1) The Panel or the chairperson must appoint the times and places for meetings of the Panel.
- (2) Meetings of the Panel may be conducted by teleconference.

#### **3 Quorum**

- (1) A quorum for a meeting of the Panel is 2 members.
- (2) No business may be transacted at a meeting of the Panel if a quorum is not present.

#### **4 Who presides at meetings**

- (1) At all meetings of the Panel, the chairperson presides if he or she is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson must preside.

#### **5 Voting at meetings**

- (1) All questions arising at a meeting of the Panel must be decided by a majority of the votes cast by the members present.
- (2) The member presiding at the meeting has a deliberative vote and, in the case of an equality of votes, also has a casting vote.

#### **6 Resolutions**

- (1) A resolution in writing signed or assented to by letter, telegram, telex, fax message, or electronic message by all members of the Panel is as valid and effectual as if it had been passed at a meeting of the Panel duly called and constituted.
- (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.

**7 Conflict of interest**

- (1) If any member of the Panel has any interest in any matter under consideration by the Panel, the member must declare that interest at the first meeting of the Panel at which, or after which, the member first becomes aware of the matter.
- (2) In such a case, the member must take no further part in the discussion or deliberations of the Panel on that matter and must withdraw from the room while the matter is being discussed or decided.

*Annual report*

Heading: added, on 26 July 2002, by regulation 15 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

**8 Annual report**

The Panel must, no later than 2 months after the end of each of its financial years, provide to the chief executive an audited annual report that includes—

- (a) a report on the exercise of the Panel's functions and powers during the financial year; and
- (b) a report on the receipt and expenditure of any income during the financial year.

Schedule 5 clause 8: added, on 26 July 2002, by regulation 15 of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209).

## Schedule 6 Form of statutory declaration

r 29(1)

I, [*full name*], of [*address*], being a director (*or* officer) of the manager of the core database, solemnly and sincerely declare that, having made all reasonable enquiry, to the best of my knowledge,—

- (a) the information attached to this declaration is a true copy of information that—
- (i) complies with the requirements of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001; and
  - \**(ii)* has been made publicly available by the manager of the core database in accordance with those regulations:
- \**(b)* the information, statement(s), or report(s) [*specify*] attached to this declaration is (*or* are) the information, statement(s), or report(s) requested to be supplied by the chief executive of the Ministry for Primary Industries under section 66(2) of the Dairy Industry Restructuring Act 2001.

\* 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.

.....  
Declarant

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

.....  
Justice of the Peace (*or* Solicitor  
or other person authorised to take  
a statutory declaration)

Schedule 6: amended, on 2 October 2014, by regulation 32(1) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Schedule 6: amended, on 2 October 2014, by regulation 32(2) of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295).

Marie Shroff,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 6 December 2001.



## **Reprints notes**

### **1    *General***

This is a reprint of the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2015 (LI 2015/80)

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2014 (LI 2014/295)

Criminal Procedure Act 2011 (2011 No 81): section 413

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2007 (SR 2007/118)

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2003 (SR 2003/156)

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Amendment Regulations 2002 (SR 2002/209)

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (SR 2001/373): regulation 30(9)