

Dairy Industry Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Dairy Industry Act 1952 in order to provide a framework for the provision of official assurances. An official assurance is a statement to a foreign government that certain requirements or standards have been met. The Ministry of Agriculture and Forestry (MAF) provides official assurances, when required, to facilitate trade in dairy produce.

It is important that MAF, in its role of providing official assurances, is regarded as a credible body by countries that New Zealand exports its dairy produce to. Legislative backing of MAF's official assurances systems is a key part of ensuring that the assurances issued are accurate and reputable.

The Dairy Industry Act 1952 does not currently make any reference to the provision of official assurances. The impetus for the amendment is the need to give legislative backing to the implementation of new European Union (EU) requirements for the issuing of EU Inward Monitoring Arrangement (IMA) certificates covering country specific butter and cheese quotas. New Zealand's arrangements with the EU permit New Zealand to export specified quantities of certain dairy products at a preferential rate of import duty. To be entitled to the preferential rate, the product must meet a detailed product description. The EU prescribes the form of certificate that must accompany a consignment of quota product. This is known as an IMA certificate.

Presently IMA certificates are issued by the New Zealand Dairy Board, but on 1 July 2000 the role of issuing authority will transfer to MAF.

The key features of the Bill include—

- provisions to enable the making of regulations providing details about the certification and verification systems necessary to provide official assurances, including requirements relating to compliance programmes:
- exclusion of liability for the Crown where it provides official assurances in good faith:
- increased penalties for breaches of the Act.

Clause by clause analysis

Clause 1 is the Title clause.

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

Clause 3 inserts a new section. *New section 26A* provides that the Crown is not liable for any official assurances given by the Crown relating to the compliance of dairy products with the requirements of importing countries.

Clause 4 makes 2 amendments to the penalty provision. First, it increases the maximum penalty for breaches of the Act and provides for different penalties depending on whether the breach was by a natural person or a body corporate. The penalty is increased from \$100 to \$5,000 for breaches by a natural person and from \$100 to \$20,000 for breaches by a body corporate. Secondly, it has the effect of providing that every person commits an offence who knowingly gives information required by the principal Act which is false in any material particular.

Clause 5 has 2 effects. First, it increases the maximum penalty for breaches of the regulations so that the penalty remains the same as a penalty for a breach of the Act. Secondly, it inserts 4 new regulation-making powers. Three of the new regulation-making powers relate to the setting up of a compliance programme and official assurance system for dairy produce. This is to ensure that dairy produce destined for export meets the requirements of importing countries. The fourth regulation-making power relates to cost recovery.

Clause 6 makes consequential amendments to the Dairy Industry Restructuring Act 1999, which is not yet in force.

Hon Jim Sutton

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The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Dairy Industry Amendment Act **2000**.

(2) In this Act, the Dairy Industry Act 1952¹ is called “the principal Act”.

¹ RS Vol 38 p 581

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2 Commencement

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

3 New section 26A inserted

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The principal Act is amended by inserting, after section 26, the following section:

“26A No Crown liability

The Crown is not liable to any person in respect of the provision of any official assurances given in good faith as to the compliance of dairy produce with the requirements of an importing country.”

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4 General penalty for breaches of Act

(1) Section 31(1) of the principal Act is amended by omitting the expression “\$100”, and substituting the words “\$5,000 in the

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case of a natural person, and \$20,000 in the case of a body corporate.”

- (2) Section 31(1) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:

“(f) makes any statement required by this Act, or gives any information required by this Act, knowing it to be false in any material particular; or” 5

5 Regulations

- (1) Section 32(1) of the principal Act is amended by inserting, after paragraph (x), the following heading and paragraphs: 10

“Miscellaneous

“(xa) providing for a system for the provision of official assurances as to the compliance of dairy produce with the requirements of an importing country, including the withholding of official assurances if the applicant is not entitled to export the produce: 15

“(xaa) requiring persons who are involved in the manufacturing, storage, testing, or exporting of dairy produce destined for export to have and comply with an approved compliance programme, the purposes of which are to ensure that dairy produce destined for export meets the requirements of an importing country and that official assurances are accurate: 20

“(xab) prescribing the matters that must be provided for in a compliance programme:” 25

- (2) Section 32(1) of the principal Act is amended by repealing paragraph (y), and substituting the following paragraph:

“(y) prescribing (after consultation with the industry) matters in respect of which costs are recoverable under this Act, the amounts of those costs or the method by which they are to be assessed, and the persons liable for payment of the costs:” 30

- (3) Section 32(1)(bb) of the principal Act is amended by omitting the expression “\$100”, and substituting the words “\$5,000 in the case of a natural person, and \$20,000 in the case of a body corporate,” 35

6 Consequential amendments to Dairy Industry Restructuring Act 1999

- (1) The Dairy Industry Restructuring Act 1999 is amended by omitting from section 1(2)(b) the expression “paragraphs (xa)”, and substituting the expression “paragraphs (xb)”. 5
- (2) The Dairy Industry Restructuring Act 1999 is amended—
- (a) by repealing so much of Schedule 5 as relates to sections 26A, 31(1), 32(1)(xa), and 32(1)(xd)(v) of the principal Act:
 - (b) by omitting from section 32(1)(xb) in Schedule 5 under the item relating to the principal Act the expression “28”, and substituting the expression “26”. 10
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