



## Dairy Industry (IMA Certification) Regulations 2000

Michael Hardie Boys, Governor-General

### Order in Council

At Wellington this 26th day of June 2000

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 32 of the Dairy Industry Act 1952, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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## Regulations

### 1 Title

These regulations are the Dairy Industry (IMA Certification) Regulations 2000.

### 2 Commencement

- (1) Regulation 7(1) comes into force on 1 October 2000.
- (2) The rest of these regulations come into force on 1 July 2000.

### 3 Interpretation

In these regulations, unless the context otherwise requires,—

**Act** means the Dairy Industry Act 1952

**approved method** means methods approved by the Director-General

**approved quota compliance programme** means a quota compliance programme approved by the Director-General

**country-specific tariff quota** means the tariff quotas relating to the import of dairy produce into the European Communities that specify New Zealand as the country of origin, namely,—

- (a) the tariff quota for butter of New Zealand origin:
- (b) the tariff quota for cheddar cheese of New Zealand origin:
- (c) the tariff quota for cheese for processing of New Zealand origin

**Director-General** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Act

**equipment** includes all apparatus, containers, conveyances, machinery, piping, pumps, utensils, vehicles, and other things used in the transport, reception, testing, grading, manufacture, or storage of milk

**IMA certificate** means the certificate of official assurance in the form specified by the Director-General, having regard to tariff quota product requirements, that enables dairy produce

to be imported into the European Communities under a country-specific tariff quota

**inspection** means any activity carried out for the purpose of ascertaining whether or not these regulations, or any approved quota compliance programme, are or is being, or can be, complied with

**registered laboratory** means a laboratory registered under the Dairy Industry Regulations 1990 (SR 1990/290)

**store** means premises used for storing tariff quota product

**tariff quota product** means dairy produce that is intended for import into the European Communities under a country-specific tariff quota

**tariff quota product requirements** means the requirements established by the European Communities that must be met by a consignment of dairy produce if it is to be imported into the European Communities under a country-specific tariff quota.

#### **4 Application for IMA certificate**

- (1) A person may apply in writing to the Director-General for an IMA certificate.
- (2) Applications must be—
  - (a) in the form that the Director-General specifies;
  - (b) accompanied by the information that the Director-General specifies.
- (3) The Director-General may require the information accompanying the application to be verified in a specified manner.

#### **5 Decision to issue IMA certificate**

- (1) The Director-General may issue an IMA certificate if satisfied that—
  - (a) the consignment of tariff quota product in respect of which the application is made would not cause New Zealand to exceed its country-specific tariff quota for the relevant period; and
  - (b) the application is made by a person who is lawfully entitled to export tariff quota product; and
  - (c) the consignment of tariff quota product in respect of which the application is made has been manufactured,

stored, and tested in accordance with approved quota compliance programmes; and

- (d) the exporter making the application is operating in accordance with an approved quota compliance programme.

- (2) The Director-General must not issue an IMA certificate if the Director-General is aware of any information that suggests that the consignment does not meet the tariff quota product requirements.

## **6 IMA certificate may be withdrawn, reissued, cancelled, amended, or corrected**

- (1) The Director-General may withdraw an IMA certificate if the Director-General is satisfied that—
  - (a) the IMA certificate was issued incorrectly or inappropriately; or
  - (b) events or circumstances occurring since the IMA certificate was issued mean that it no longer holds true or is misleading.
- (2) The Director-General may, on application in the manner specified in regulation 4, reissue an IMA certificate (with any modifications, if appropriate) as a new IMA certificate.
- (3) The Director-General may cancel, amend, or correct an IMA certificate in accordance with the tariff quota product requirements.

## **7 Compliance with approved quota compliance programmes**

- (1) All persons who manufacture, test, store, or export tariff quota product must operate in accordance with approved quota compliance programmes.
- (2) All persons who manufacture, test, store, or export tariff quota product must notify the Director-General of non-compliance of tariff quota product with tariff quota product requirements within 24 hours of knowledge of the non-compliance.

## **8 Application for approval of quota compliance programmes**

A person may apply in writing to the Director-General for approval of a quota compliance programme.

## **9 Requirements for quota compliance programmes for manufacturers of tariff quota product**

The Director-General may not approve a quota compliance programme for a manufacturer of tariff quota product unless satisfied that the programme makes adequate provision for—

- (a) tariff quota product to be made according to the tariff quota product requirements; and
- (b) testing, sampling, weighing, calculating, and calibrating, as necessary, to generate accurate and reliable data regarding fat content, weight, and any other matter that is necessary to support the issuance of an IMA certificate; and
- (c) the identification of tariff quota product throughout the manufacturing process; and
- (d) documented systems to capture, record, and transfer data; and
- (e) the keeping, availability for inspection, and inspection of records to determine readily whether or not the programme has been and is being complied with; and
- (f) the designation of persons who are responsible for the supply of data and the provision of declarations; and
- (g) procedures to manage tariff quota product that does not meet the tariff quota product requirements; and
- (h) the secure and reliable transportation of tariff quota product.

## **10 Requirements for quota compliance programmes for persons who store tariff quota product**

The Director-General may not approve a quota compliance programme for a person who stores tariff quota product unless satisfied that the programme makes adequate provision for—

- (a) the storage of tariff quota product in a manner that does not cause non-compliance with the tariff quota product requirements; and
- (b) documented systems and procedures to identify tariff quota product and to ensure that correct product is taken from the store when a consignment is being sent for export to the European Communities; and
- (c) the keeping, availability for inspection, and inspection of records to determine readily whether or not the programme has been and is being complied with.

**11 Requirements for quota compliance programmes for persons who test tariff quota product**

The Director-General may not approve a quota compliance programme for a person who tests tariff quota product unless satisfied that the programme makes adequate provision for—

- (a) carrying out sampling and testing in accordance with approved methods; and
- (b) the keeping, availability for inspection, and inspection of records to determine readily whether or not the programme has been and is being complied with.

**12 Requirements for quota compliance programmes for persons who export tariff quota product**

The Director-General may not approve a quota compliance programme for a person who exports tariff quota product unless satisfied that the programme makes adequate provision for—

- (a) documented systems and procedures to identify tariff quota product and to ensure that the tariff quota product that is exported is the tariff quota product that is certified; and
- (b) documented systems and procedures for the receipt, processing, and transfer of data relating to tariff quota product to the Director-General; and
- (c) the keeping, availability for inspection, and inspection of records to determine readily whether or not the programme has been and is being complied with; and
- (d) the designation of persons who are responsible for the supply of data and the provision of declarations.

**13 Variation of approved quota compliance programmes**

- (1) A person may apply to the Director-General for the variation of an approved quota compliance programme.
- (2) The Director-General must apply regulations 9 to 12 to an application for the variation of an approved quota compliance programme as if it were an application for the approval of a quota compliance programme.
- (3) In addition, when approving a variation of an approved quota compliance programme, the Director-General must indicate whether—

- (a) the approved quota compliance programme before variation is to cease to be approved, with the varied programme replacing it; or
- (b) the approved quota compliance programme before variation and the varied programme are to co-exist as approved quota compliance programmes.

#### **14 Withdrawal of approval**

- (1) The Director-General may withdraw approval of an approved quota compliance programme at any time by—
  - (a) notice in the *Gazette*; or
  - (b) written notice to the person who originally applied for approval of the programme concerned.
- (2) Despite subclause (1), the Director-General must not withdraw approval of an approved quota compliance programme unless, after taking all reasonable steps to get all the relevant information, the Director-General is no longer satisfied of 1 or more of the matters required by regulations 9 to 12.

#### **15 Powers of inspectors**

- (1) An occupier of a dairy factory, store, or registered laboratory must permit an inspector, or other person approved by the Director-General, at all reasonable times to do all or any of the following for the purposes of these regulations:
  - (a) to enter the dairy factory, store, or registered laboratory and inspect any part of the premises, and any equipment, process, procedure, or dairy produce on the premises;
  - (b) to carry out any examination or test, or to require any demonstration of any processing, testing, or inspection procedure;
  - (c) to peruse all charts and other records kept for the purposes of these regulations, and to make copies of any entries in the charts and records.
- (2) An exporter of tariff quota product must permit an inspector, or other person approved by the Director-General, at all reasonable times to do all or any of the following for the purposes of these regulations:
  - (a) to enter premises where the exporter—

- (i) stores the records that the exporter keeps for the purposes of these regulations; or
    - (ii) carries out the processing of data relating to tariff quota product:
  - (b) to peruse and audit—
    - (i) all records kept for the purposes of these regulations, and to make copies of any entries in the records; and
    - (ii) the systems and procedures for the processing of data relating to tariff quota product.
- (3) The power to enter premises conferred in subclauses (1) and (2) is subject to the following conditions:
  - (a) the person entering must carry evidence of the person's authority and identity, which the person must produce when the person enters the premises for the first time and if subsequently asked:
  - (b) the person exercising the power of entry must leave notice of the entry where it can easily be seen by the occupier if the occupier is not present at the time of entry.
- (4) Nothing in subclauses (1) and (2) authorises the person to enter a dwellinghouse unless a District Court Judge, who is satisfied on oath that it is reasonably necessary for the person to enter a dwellinghouse, empowers by warrant the person to enter that place, but no such warrant may continue in force for more than 14 days from the date on which it is issued.

## **16 Production of records and test results**

If an approved quota compliance programme or these regulations require the keeping of particular records or the making of particular tests, an inspector, or other person authorised by the Director-General, may direct the person in control of the records or the results of the tests to produce them for inspection.

## **17 Promulgation of circulars**

For the purposes of section 32(5) of the Act, the Director-General may promulgate circulars setting out general criteria for the drawing up, accomplishment, demonstration, carrying

on, or provision for any act, plan, proposal, matter, system, process, or thing.

**18 Testing only in registered laboratories**

All testing of manufactured tariff quota product must be carried out in a registered laboratory.

**19 Fees**

- (1) The fees set out in the Schedule are payable in respect of the matters to which they relate.
- (2) These fees are inclusive of goods and services tax.

**20 Transitional provision**

Despite regulation 5(1)(c) and (d), the Director-General may issue an IMA certificate in respect of tariff quota product manufactured, stored, or tested before 1 October 2000 if satisfied that the tariff quota product was manufactured, stored, and tested in accordance with procedures that the Director-General has determined to be an adequate basis for issuing an IMA certificate.

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## Schedule r 19(1)

### Fees payable under Dairy Industry Act 1952

Service	Fee type	Fee (\$)	When due
<i>Certification</i> Application for, evaluation of, and issuance of IMA certificate	Quarterly fee	\$55,546.88 per quarter	Payable by exporter of tariff quota product on 1 July, 1 October, 1 January, and 1 April
<i>Approvals</i> Application for, evaluation of, variation of, and approval of quota compliance programme	Application fee	\$130 per application, plus \$130 per hour in excess of 1 hour considering application plus actual costs*	\$130 payable by applicant on application for approval, and any remainder payable within 1 month of granting or refusal to grant approval
<i>Compliance</i> Verification inspection and audits	Inspection and audit fee	\$130 per hour, plus actual costs*	Payable by person who manufactures, stores, tests, or exports tariff quota product and who is subject to verification inspection and audits within 1 month of inspection and audits

\*Includes actual and reasonable costs of matters such as external review, expert review, notification, product testing, travel and accommodation, photocopying, printing and stationery, phone, fax, video conferencing, postage, and courier.

Marie Shroff,  
Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 July 2000 (except *regulation 7(1)* which comes into force on 1 October 2000), set up a process to ensure that New Zealand butter, cheddar cheese, and cheese for processing to be exported to the European Communities meets the European Communities' tariff quota product requirements.

Specifically, a person who wishes to export these goods to the European Communities must obtain an IMA certificate from the Director-General. The certificate certifies that the tariff quota product meets the tariff quota product requirements. The regulations also provide a process for approving quota compliance programmes that are designed to ensure compliance with the European

Communities' requirements. The transitional provision in *regulation 20* provides for matters occurring before the relevant quota compliance programmes are approved.

These regulations also provide for fees in respect of—

- the issuance of IMA certificates:
- the approval of quota compliance programmes:
- verification inspection and audits.

The fees are inclusive of goods and services tax.

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These regulations are administered in the Ministry of Agriculture and Forestry.

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