

# Dairy Industry Regulation 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dairy Industry Act 2000*.

Minister for Primary Industries

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Dairy Industry Conference Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the appointment and the terms of office of the members of the New South Wales Dairy Industry Conference,
- (b) the appointment of the Chairperson of the Conference by the Minister,
- (c) the election of the Deputy Chairperson of the Conference by the members of the Conference,
- (d) the vacation of office of members of the Conference,
- (e) the procedure for calling and holding meetings of the Conference,
- (f) savings and formal matters.

This Regulation is made under the *Dairy Industry Act 2000*, including sections 8 and 23 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

## Part 1 – Preliminary

### 1 Name of Regulation

This Regulation is the *Dairy Industry Regulation 2010*.

### 2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

This Regulation replaces the *Dairy Industry Conference Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

- (1) In this Regulation: "**Chairperson**" means the Chairperson of the Conference. "**dairy produce merchant**" means any person:
- (a) who, otherwise than as an employee or a carrier, receives or accepts milk to be supplied to another person, or
  - (b) who, otherwise than as an employee, sells milk to another person.
- "**Deputy Chairperson**" means the Deputy Chairperson of the Conference. "**Director-General**" means the Director-General of the Department of Industry and Investment. "**industry member**" means a member referred to in clause 4 (1) (c), (d), (e)

or (f). "**non-voting member**" --see clause 4 (2). "**meeting of the Conference**" means a duly convened meeting of the members. "**member**" means a member of the Conference. "**the Act**" means the *Dairy Industry Act 2000*. "**voting member**" means a member other than a non-voting member.

(2) Notes included in this Regulation do not form part of this Regulation.

## **Part 2 – Membership of New South Wales Dairy Industry Conference**

### **4 Membership of Conference**

(1) The Conference is to consist of 16 members of whom:

(a) one is an independent person appointed by the Minister to be the Chairperson of the Conference, and

(b) 2 are the persons appointed under section 7 (1) (b) and (c) of the Act, and

(c) 5 are persons appointed by the NSW Farmers' Association to represent dairy farmers, and

(d) 4 are persons appointed by the NSW Milk and Dairy Products Association to represent dairy produce merchants, and

(e) one is a person appointed by the Amalgamated Milk Vendors Association Inc. to represent dairy produce merchants who are distributors by vehicle, and

(f) one is a person appointed by the Australian Retailers Association to represent dairy produce merchants who are shop distributors, and

(g) one is a person appointed by the Director-General, and

(h) one is the person referred to in section 7 (1) (d) of the Act.

(2) A member referred to in subclause (1) (g) or (h) (a "**non-voting member**") is not entitled to vote on any matter considered by the Conference.

(3) A person is qualified to be appointed as a member by an association referred to in subclause (1) whether or not the person is a member of the association.

(4) In this clause, a reference to an association includes a reference to an association that is its successor.

### **5 Terms of office of members**

(1) A member referred to in clause 4 (1) (a) or (b) holds office until replaced by another member appointed by the Minister to be Chairperson or under section 7 (1) (b) or (c) of the Act, as the case may be.

(2) An industry member holds office from the day of the annual meeting following the appointment of the member until the day before the annual meeting in the second year after that appointment.

(3) A member referred to in clause 4 (1) (g) holds office until replaced by another member appointed by the Director-General.

(4) A member who ceases to hold office is eligible for re-appointment if otherwise qualified.

### **6 Appointment of members**

(1) An association referred to in clause 4 (1) must, before each annual meeting of the Conference, appoint a member or members to replace any member or members ceasing to hold office on the day before that annual meeting.

(2) An association must inform the Chairperson in writing of the name and address of each person appointed at least 30 days before the annual meeting of the Conference.

### **7 Election of Deputy Chairperson**

(1) At each annual meeting held in an even numbered year, the voting members must elect a Deputy Chairperson of the Conference.

(2) The Deputy Chairperson is to assume office at the conclusion of the annual general meeting and hold office until the conclusion of the next annual general meeting at which a Deputy Chairperson is required to be elected.

(3) A member referred to in clause 4 (1) (b) or an industry member may be nominated for

the office of Deputy Chairperson by any member.

(4) If there is more than one nomination, an election is to be conducted, in accordance with the directions of the person presiding at the meeting, by secret ballot according to a preferential system of voting among the voting members present at the meeting.

(5) A member elected as Deputy Chairperson is eligible for re-election for one or more further terms of office as Deputy Chairperson.

### **8 Casual vacancy in office of member appointed by Minister or Director-General**

A person holding the office of a member referred to in clause 4 (1) (a), (b) or (g) vacates the office if the person:

(a) resigns that office by instrument in writing addressed to the Minister or, in the case of a member referred to in clause 4 (1) (g), the Director-General, or

(b) dies, or

(c) is removed from office by the Minister or, in the case of a member referred to in clause 4 (1) (g), the Director-General.

### **9 Casual vacancy in office of industry member**

(1) A person holding the office of an industry member vacates that office if the person:

(a) dies, or

(b) becomes a mentally incapacitated person, or

(c) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or

(d) resigns the office by instrument in writing addressed to the Conference, or

(e) being a person appointed to represent dairy farmers or dairy produce merchants, is found by a resolution of the Conference not to be representing the interests of dairy farmers or those dairy produce merchants, as the case may be.

(2) If a vacancy occurs in the office of an industry member (otherwise than by the expiration of a term of office), the relevant association is to appoint a person to fill the vacancy.

(3) A person so appointed:

(a) is taken to have been appointed by the association under the same provision as that under which the person who vacated office was appointed, and

(b) holds office as a member during the unexpired term of the vacated office.

(4) An association responsible for the appointment of a person to fill a vacancy in the office of a member must inform the Chairperson in writing of the name and address of the person appointed to fill the vacancy not later than 30 days after the vacancy occurs.

### **10 Casual vacancy in office of Deputy Chairperson**

(1) A person holding office as Deputy Chairperson vacates that office if the person:

(a) resigns that office by instrument in writing addressed to the Conference, or

(b) ceases to be a member, or

(c) is appointed to the office of Chairperson.

(2) If a vacancy occurs in the office of Deputy Chairperson (otherwise than by the expiration of a term of office), the vacancy is to be filled by a voting member elected at a meeting of the Conference.

(3) The person filling the vacancy holds office during the unexpired term of the vacated office.

### **11 Default in appointing members**

(1) If an association fails to appoint a member as required by a provision of this Regulation, the Chairperson must, as soon as is practicable, so advise the Minister.

(2) The Minister may appoint a person as a member to the vacant office and that person is taken to have been appointed to that office under the provision that required the

association to make the appointment.

### **Part 3 – Conference meetings**

#### **12 Meetings**

- (1) Meetings of the Conference are to be held at such times and in such places as the Conference may determine.
- (2) An annual meeting of the Conference must be held in each calendar year.
- (3) The Conference may delegate to the Chairperson the responsibility of determining the times and places of meetings.

#### **13 Transaction of business outside meetings or by telephone**

- (1) The Conference may, if it thinks fit, transact any of its business by the circulation of papers among all members of the Conference for the time being, and a resolution in writing approved in writing by a majority of the voting members is taken to be a decision of the Conference.
- (2) The Conference may, if it thinks fit, transact any of its business at a meeting at which the members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purpose of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Conference.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Conference.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

#### **14 Special meetings**

- (1) The Chairperson or the Deputy Chairperson may, if either considers the circumstances warrant such action, convene a meeting of the Conference and determine the time and place of the meeting.
- (2) The Chairperson or Deputy Chairperson must convene a meeting of the Conference if at least 6 members sign a written request for the meeting.
- (3) If the Chairperson or Deputy Chairperson does not convene a meeting within 14 days after the Chairperson or Deputy Chairperson receives such a request, the members who signed the request may convene a meeting at such time and place as they determine.

#### **15 Notice of meetings**

- (1) The Chairperson or Secretary (if any) of the Conference is to send by post, facsimile or email to each member of the Conference:
  - (a) a notice of the time and place of each meeting of the Conference, and
  - (b) a copy of the agenda for the meeting.
- (2) The notice must designate the type of meeting to be held.
- (3) The notice is to be sent:
  - (a) in the case of an annual or ordinary meeting--at least 14 days before the meeting, and
  - (b) in the case of a special meeting--at least 7 days before the meeting.
- (4) The copy of the agenda for a meeting is to be sent at least 7 days before the meeting.

#### **16 Quorum**

The quorum for a meeting of the Conference is 9 members, at least 8 of whom must be voting members.

#### **17 Presiding member**

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Conference.
- (2) In the absence of both the Chairperson and the Deputy Chairperson, another voting member elected to chair the meeting by the voting members present is to preside at a meeting of the Conference.
- (3) The Chairperson, Deputy Chairperson or any other person has a deliberative but not a casting vote if presiding at a meeting of the Conference.

#### **18 Submission of business and motions**

- (1) Business and motions may be submitted to the Conference by any of the following:
  - (a) an association referred to in clause 4 (1),
  - (b) a member,
  - (c) the Minister,
  - (d) the Food Authority,
  - (e) the Secretary (if any) of the Conference, on behalf of any other person who may submit business or motions under this subclause.
- (2) Motions may:
  - (a) be forwarded in writing to the Chairperson or Secretary (if any) of the Conference for placing on the agenda for the next meeting of the Conference, or
  - (b) be moved at a meeting of the Conference.

#### **19 Decisions of Conference**

- (1) All decisions of the Conference are to be by way of resolution on motion.
- (2) A motion is lost unless at least 8 voting members vote in favour of the motion.

#### **20 Conduct of Conference business**

- (1) The Conference may manage its own affairs and may make such By-laws (consistent with this Regulation and the Act) as it considers necessary for the management of the Conference.
- (2) The Chairperson is to sign the minutes for each meeting of the Conference and any documents required to be signed on behalf of the Conference.
- (3) The Chairperson, jointly with the Secretary (if any) of the Conference, is responsible for the safe custody of all documents, securities and funds of the Conference.
- (4) If the Chairperson is unable to attend to the duties of that office, the Deputy Chairperson is to attend to those duties and, in any such case, the Deputy Chairperson is, for all purposes, taken to be the Chairperson.
- (5) Except where otherwise specifically provided in this Regulation, the conduct of business at meetings of the Conference is to be as determined from time to time by the Conference.

### **Part 4 – Miscellaneous**

#### **21 Regularity of proceedings**

- (1) Failure to give notice of a meeting of the Conference does not invalidate the proceedings of the meeting.
- (2) Any communication required to be sent to a member of the Conference may be sent to the member at the last address notified to the Chairperson or Secretary (if any) of the Conference by the member.

#### **22 Savings**

- (1) The Conference constituted under the *Dairy Industry Conference Regulation 2005* immediately before its repeal is taken to be the Conference constituted under this Regulation and is taken to have been validly constituted under this Regulation until it is constituted in accordance with the provisions of clause 4.
- (2) Any act, matter or thing that, immediately before the repeal of the *Dairy Industry Conference Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Dairy Industry Regulation 2010 (223)*. LW 4.6.2010.  
Date of commencement, 1.9.2010, cl 2.