

# Dairy Industry (Exporter Registration) Regulations 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 13th day of May 2002

Present:

Her Excellency the Governor-General in Council

Pursuant to section 32(1) of the Dairy Industry Act 1952, Her 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 (Exporter Registration) Regulations 2002.

## 2 Commencement

These regulations come into force 28 days after the date of their notification in the Gazette.

## 3 Meanings derived from Act

(1) Words and expressions defined in the Dairy Industry Act 1952 and used in these regulations have the same meaning as in that Act.

(2) The following terms are defined in the Dairy Industry Act 1952 and their definitions are repeated below, for easy reference:

dairy produce means milk, cream, butter, or cheese, and includes any other product of milk or cream

Director means the chief executive of the Ministry of Agriculture and Forestry.

## 4 Requirement to register

(1) A person must not export dairy produce unless---

(a) the person is registered as an exporter under these regulations; or

(b) the person or dairy produce is exempt from the requirement to register.

(2) The Director must keep and maintain a register of exporters of dairy produce.

(3) The purposes of the register are---

(a) to enable the public to know who exports dairy produce; and

(b) to assist the Director to---

(i) advise exporters of dairy produce of importing country requirements that New Zealand has agreed to meet and of developments in market access; and

(ii) safeguard official assurances represented by export certification of dairy produce into overseas markets, including in emergencies;

and

(c) to assist the Ministry of Agriculture and Forestry to undertake its functions under the Act.

#### 5 Deemed registrants and exemptions

(1) The following persons are to be treated as registered as exporters of dairy produce but only until 30 June 2002:

(a) a person notified by the New Zealand Dairy Board under section 166 of the Dairy Industry Restructuring Act 2001 as entitled to export dairy produce:

(b) Westland Co-operative Dairy Co Limited:

(c) Fonterra Co-operative Group Limited:

(d) the New Zealand Dairy Board.

(2) After 30 June 2002, the requirement to register to export dairy produce applies to the persons specified in subclause (1).

(3) A person is exempt from the requirement to register under these regulations if the Director is satisfied that---

(a) the only dairy produce for export by the person is---

(i) for use in research or development; or

(ii) for use as a trade sample in the initial development of a market; or

(iii) for the personal or non-commercial use of a person travelling with the dairy produce; or

(iv) food for consumption by humans or animals as sustenance during transit as passenger, crew, or cargo by sea or air on a vessel or aircraft leaving New Zealand; or

(v) multi-ingredient food that is not, principally, dairy produce but contains 1 or more ingredients that are dairy produce (examples are biscuits, cakes, bread, and soup); or

(vi) a cosmetic (cosmetic has the same meaning as in section 2 of the Medicines Act 1981); and

(b) the dairy produce does not require export certification.

(4) A person who currently exports dairy produce that is not export produce, as defined in section 2(1) of the Dairy Board Act 1961, is exempt from the requirement to register under these regulations until 30 June 2002.

## 6 Applications for registration

(1) A person who intends to export dairy produce must apply to the Director for registration as an exporter of dairy produce.

(2) An application must be in the form approved by the Director and be accompanied by the relevant fee; the Director may return a deficient application, and the fee, to an applicant.

(3) On receipt of an acceptable application and the relevant fee, the Director must register the applicant as an exporter of dairy produce unless the Director believes that---

(a) the applicant, or a director or manager of the applicant, (whether in New Zealand or overseas) has been convicted of an offence---

(i) of fraud or dishonesty; or

(ii) relating to management or control of business activities of a kind that are regulated under the Act; or

(b) there has previously been a serious or repeated failure by the applicant to comply with the duties of an exporter of dairy produce; or

(c) there are other grounds to believe that the applicant is likely to fail to comply with the duties of an exporter of dairy produce; or

(d) the exporter is not a New Zealand resident and does not have a New Zealand resident agent.

(4) To assess the matters specified in subclause (3), the Director may require an applicant to supply information additional to that contained in the application, including a statutory declaration concerning convictions.

(5) If an applicant fails to supply the information within 3 months of the request (or within an extended period if the Director allows), the application lapses.

## 7 Registration as exporter

(1) To register an applicant as an exporter of dairy produce, the Director must---

(a) enter in the register the content required by subclause (2); and

(b) notify the person in writing of registration.

(2) The register must contain the following particulars, as relevant, for

each exporter:

(a) the name and address (including the electronic address, if available) of the exporter:

(b) the date of first registration and the dates of renewal of registration.

#### 8 Refusal to register

(1) If the Director proposes not to register a person as an exporter of dairy produce, the Director must give the applicant---

(a) advice explaining clearly the grounds on which the Director proposes not to register; and

(b) a copy of the information on which the Director relies in proposing not to register; and

(c) a reasonable opportunity to make written submissions or be heard.

(2) If the Director decides not to register a person as an exporter of dairy produce, the Director must, as soon as practicable, notify the person, in writing, of---

(a) the decision; and

(b) the reasons for the decision, and the facts or assumptions on which it is based.

#### 9 Access to register

(1) The Director must---

(a) keep the register open for public inspection, without fee, during reasonable hours at---

(i) the head office of the Ministry of Agriculture and Forestry;  
and

(ii) at any other places that the Director considers appropriate;  
and

(b) supply a copy of all or part of the register to a person on request by the person and on payment of a reasonable charge for the production of the copy.

(2) The register may be kept in whatever manner the Director thinks fit, which includes by means of a device or facility that, totally or partly,---

- (a) records or stores information electronically; and
- (b) permits the information recorded to be readily inspected or reproduced in usable form; and
- (c) permits the register to be accessed electronically.

#### 10 Registration fees

- (1) A person registering for the first time as an exporter of dairy produce must pay a fee (with the application) of \$327.
- (2) A person registered as an exporter of dairy produce must pay a fee of \$177 annually, on a date specified by the Director, to maintain registration.
- (3) The fees in subclauses (1) and (2) are to recover the cost to the Ministry of Agriculture and Forestry of administering these regulations.

#### 11 Deregistration of exporters

- (1) The Director may remove a person from the register if the Director is satisfied that---
  - (a) there has been a serious or repeated failure by the person to comply with the duties of an exporter of dairy produce; or
  - (b) the person would be refused registration under regulation 6; or
  - (c) a failure to pay the annual fee under regulation 10(2) by the due date has persisted for more than 30 days.
- (2) Before removing a person from the register, the Director must---
  - (a) advise the person in writing of his or her intention, giving the reasons for that intention and the facts and assumptions on which it is based; and
  - (b) give the person a reasonable opportunity, within the time specified in the advice, to request the Director to review the decision.
- (3) If a person requests a review of a decision to deregister, the person must provide to the Director, within 30 days of the request for a review, evidence, information, and submissions as to why the person should not be deregistered.
- (4) A delegate of the Director who was not involved in the decision to deregister must review the matter within 90 days of the request for a review being made.

(5) The Director must---

(a) decide finally whether or not to deregister the person within that 90-day period; and

(b) as soon as practicable, notify the person of the decision, in writing, giving reasons and, if the decision is unfavourable, the facts or assumptions on which the decision is based.

## 12 Duties of exporters

Every exporter of dairy produce (whether registered or not) must---

(a) ensure that their export operations do not breach the Act; and

(b) export only dairy produce that meets---

(i) the relevant standards and specifications; and

(ii) the relevant importing country requirements made known by the Director; and

(c) notify the Director as soon as possible, but not later than 24 hours after the event or first knowledge of the event, if dairy produce for export by the exporter---

(i) is refused entry by a foreign government; or

(ii) does not meet the importing country requirements made known by the Director; and

(d) maintain procedures and processes that demonstrate that the record-keeping requirements of the Act and its regulations for the provenance and processing of dairy produce exported are complied with.

## 13 Director must make importing country requirements known

(1) The Director must---

(a) make importing country requirements that New Zealand has agreed to meet known to registered exporters of dairy produce; and

(b) make those requirements available for inspection on the Ministry of Agriculture and Forestry's website.

(2) The Director may, if the Director considers it necessary or desirable, specify the manner in which the importing country requirements may or must be met, and must notify or make those specifications available in the same way as

requirements are made known under subclause (1).

(3) The Director may---

(a) charge for access to a website or for information or services provided by the website; or

(b) for importing country requirements that are commercially sensitive, limit access to those requirements to persons who satisfy the Director that their specific export activities cannot be properly undertaken unless they have that access.

Diane Wilderspin,  
Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in Gazette: 16 May 2002.

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