

DAIRY INDUSTRY ACT 1979—REGULATION

(Dairy Industry Conference Regulation 1994)

NEW SOUTH WALES



[Published in Gazette No. 108 of 26 August 1994]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Dairy Industry Act 1979, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY,
Minister for Agriculture and Fisheries.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Dairy Industry Conference Regulation 1994.

Commencement

2. This Regulation commences on 26 August 1994.

Definitions

3. In this Regulation:

“**Chairperson**” means the Chairperson of the Conference and the Executive Committee;

“**country area**” means that part of New South Wales not included in the metropolitan area;

“**Deputy Chairperson**” means the Deputy Chairperson of the Conference and the Executive Committee;

“distribution sector member” means:

- (a) a member appointed by the Amalgamated Milk Vendors’ Association Inc. to represent dairy produce merchants who are distributors by vehicle; or
- (b) a member appointed by the Retail Traders’ Association of New South Wales or The Food Retailers* Association of New South Wales to represent dairy produce merchants who are shop distributors;

“Executive Committee” means the committee constituted by section 6C of the Act;

“Executive Director” means the person for the time being employed by the Conference as the Executive Director of the Conference;

“meeting of the Conference” means a duly convened meeting of the members;

“member” means a member of the Conference;

“metropolitan area” means the area comprised in the Metropolitan milk distributing district as defined in Milk Prices Order No. 164 published in Gazette No. 99 of 29 July 1994;

“processor sector member” means:

- (a) a member appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants processing milk; or
- (b) a member appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants manufacturing dairy products;

“producer sector member” means a member appointed by the N.S.W. Dairy Farmers’ Association to represent dairy farmers;

“the Act” means the Dairy Industry Act 1979.

Notes to clauses

- 4. Notes to clauses do not form part of this Regulation.

PART 2—MEMBERSHIP OF THE N.S.W. DAIRY INDUSTRY CONFERENCE

Membership of the Conference

- 5. (1) The Conference is to consist of 39 members of whom:
 - (a) 4 are persons appointed by the Minister under section 6B (1) (b) and (c) of the Act;

- (b) 19 are persons appointed by the N.S.W. Dairy Farmers' Association to represent dairy farmers;
 - (c) 3 are persons appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants processing milk in the metropolitan area;
 - (d) 3 are persons appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants processing milk in the country area;
 - (e) 3 are persons appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants manufacturing dairy products;
 - (f) 4 are persons appointed by the Amalgamated Milk Vendors' Association Inc. to represent dairy produce merchants who are distributors by vehicle;
 - (g) 1 is a person appointed by the Retail Traders' Association of New South Wales to represent dairy produce merchants who are shop distributors;
 - (h) 1 is a person appointed by The Food Retailers' Association of New South Wales to represent dairy produce merchants who are shop distributors;
 - (i) 1 is a person appointed by the association which appointed as a member the person who is the current Chairperson.
- (2) 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.
- (3) For the purposes of this Regulation, a person:
- (a) who was elected as a member under clause 3 (2) of the New South Wales Dairy Industry Conference Regulation 1986; and
 - (b) who was holding that office immediately before the commencement of this Regulation,
- is taken to have been appointed as a member by the association by whose members he or she was elected.
- (4) In this clause, a reference to an association includes a reference to an association which is its successor.

Terms of office of members

6. (1) A member referred to in clause 5 (1) (a) holds office until replaced by another member appointed by the Minister under section 6B (1) (b) or (c) of the Act.

(2) A member referred to in clause 5 (1) (b)—(h) 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 5 (1) (i) holds office from the day of appointment until the Chairperson at the time of the appointment ceases to be Chairperson or a member (whichever first occurs).

(4) A member referred to in clause 3 (1) (b) or (2) of the New South Wales Dairy Industry Conference Regulation 1986 (or a person appointed under that Regulation to replace that member) holding office immediately before the commencement of this Regulation continues to hold office until such time as the member would, had that Regulation remained in force, have ceased to hold office.

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

NOTE: Under the New South Wales Dairy Industry Conference Regulation 1986, an elected member ceases to hold office on the day before the annual meeting in the second year after the member's election. Of the elected members, 19 (as determined under that Regulation) cease to hold office in each odd numbered year, and the remaining 15 cease to hold office in each even numbered year.

Appointment of members

7. (1) An association referred to in clause 5 (1) (b)—(h) 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.

Election and term of office of Chairperson

8. (1) At each annual meeting held in an even numbered year, the members must elect a Chairperson from among the members referred to in clause 5 (1) (b)—(h).

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

(3) A member referred to in clause 5 (1) (b)—(h) may be nominated for the office of 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 members present at the meeting.

(5) A member elected as Chairperson is eligible for re-election for a further term of office as Chairperson, but no person is to hold office as Chairperson for more than 2 consecutive full terms.

Election of Deputy Chairperson

9. (1) At each annual meeting, the members must elect a Deputy Chairperson of the Conference.

(2) The Deputy Chairperson must be a member of the Executive Committee (other than the General Manager).

(3) A member of the Conference may nominate a member of the Executive Committee (other than the General Manager) for the office of Deputy Chairperson.

(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 members present at the meeting.

Appointment of the member referred to in clause 5 (1) (i)

10. (1) As soon as practicable after the election of a Chairperson, the association which appointed the member elected as Chairperson is to appoint a person to be a member as required by clause 5 (1) (i).

(2) For the purposes of this Regulation (this Part excepted), a member appointed under subclause (1) by an association is taken to have been appointed by the association under the same provision of this Part as that under which the current Chairperson was appointed as a member.

Casual vacancy in office of member

11. (1) A member vacates office if the member:

- (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 distribution sector member, a processor sector member or a producer sector member, is found by a resolution of the Conference not to be representing the interests of the distribution, processor or producer sector of the dairy industry, as the case may be.

(2) If a vacancy occurs in the office of a member appointed by an association (otherwise than by the expiration of a term of office), the 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.

Casual vacancy in office of Chairperson

12. (1) A person holding office as 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.

(2) If a vacancy occurs in the office of Chairperson (otherwise than by the expiration of a term of office), the Deputy Chairperson is to be Chairperson until the next meeting of the Conference.

(3) The vacancy is to be filled by the members electing a Chairperson from among the members referred to in clause 5 (1) (b)—(h) at the next meeting of the Conference.

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

Casual vacancy in office of Deputy Chairperson

13. (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 of the Executive Committee; or
- (c) is elected 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 member of the Executive Committee, other than the General Manager, elected at a meeting of the Executive Committee.

(3) The person elected holds office until the next meeting of the Conference.

(4) The Conference at that next meeting, if it is not an annual meeting, is to elect a member of the Executive Committee, other than the General Manager, to fill the vacant office.

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

Default in appointing members

14. (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 which required the association to make the appointment.

PART 3—CONFERENCE MEETINGS

Annual and ordinary meetings

15. (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 the month of April, May, June or July.

(3) At least one other meeting of the Conference must be held each year.

(4) The Conference may delegate to the Chairperson or to the Executive Committee the responsibility of determining the times and places of meetings.

Special meetings

16. (1) The Chairperson or the Executive Committee 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 Executive Committee must convene a meeting of the Conference if at least 26 members sign a written request for the meeting.

(3) If the Executive Committee does not convene a meeting within 7 days after it receives such a request, the members who signed the request may convene a meeting at such time and place as they determine.

Notice of meetings

17. (1) The Executive Director is to send by post 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 28 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.

Quorum

18. The quorum for a meeting of the Conference is 26 members.

Presiding member

19. (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 member elected to chair the meeting by the members present is to preside at a meeting of the Conference.

(3) The Chairperson does not have a vote at a meeting of the Conference.

(4) The Deputy Chairperson does not have a vote while presiding at a meeting of the Conference.

(5) A member elected to chair a meeting of the Conference in the absence of the Chairperson and Deputy Chairperson has a deliberative but not a casting vote.

Submission of business and motions

20. (1) Business and motions may be submitted to the Conference by any of the following:

- (a) the Chairperson;
- (b) the Executive Committee;
- (c) an association referred to in clause 5 (1);
- (d) a member;
- (e) the Minister;
- (f) the Corporation.

(2) Motions may:

- (a) be forwarded in writing to the Executive Director for placing on the agenda for the next meeting of the Conference; or
- (b) be moved at a meeting of the Conference; or
- (c) be moved as provided in clause 22.

Decisions of the Conference

21. (1) All decisions of the Conference are to be by way of resolution on motion.

(2) A motion proposing that the Minister recommend to the Governor an amendment to this Regulation is lost unless at least 26 members vote in favour of the motion.

(3) Any other motion is lost unless at least 23 members vote in favour of the motion.

Decisions between Conference meetings

22. (1) If a decision is required between meetings of the Conference, the Executive Committee must send its recommendations in the form of a motion to each member of the Conference.

(2) The motion may be put and resolved by correspondence or other recorded means subject to the following provisions:

- (a) each motion is to bear the date of despatch and be accompanied by a sufficient statement of facts explaining the motion;
 - (b) if a motion is sent by telegram, telex or facsimile transmission, a member who has not replied in like manner to the Executive Director within 7 days after the date of despatch of the telegram, telex or facsimile transmission is to be taken to have refrained from voting;
 - (c) if a motion is sent by post, a member who has not replied to the Executive Director by correspondence or other recorded means within 14 days after the date of despatch of the letter is to be taken to have refrained from voting;
 - (d) a motion to vary a previous decision of the Conference is lost unless it is carried by at least 26 members voting in the affirmative;
 - (e) on receipt of the motion, each member may vote “yes” or “no”, request that the motion be referred to a meeting of the Conference or refrain from voting;
 - (f) if at least 26 members require a motion to be referred to the Conference, the motion is to be referred to the next meeting of the Conference.
- (3) The Chairperson does not have a vote on a motion put in accordance with this clause.

Conduct of Conference business

23. (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 Executive Director, 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—MEMBERSHIP OF THE EXECUTIVE COMMITTEE**Membership of the Executive Committee**

24. The persons to be appointed by the Conference as members of the Executive Committee of the Conference under section 6C (1) (b) of the Act are to include the following persons (in addition to the persons referred to in section 6C (1) (a) and (c)–(e) of the Act):

- (a) 4 of the members of the Conference appointed under clause 5 (1) (b);
- (b) 1 of the members of the Conference appointed under clause 5 (1) (c) or (d);
- (c) 1 of the members of the Conference appointed under clause 5 (1) (e);
- (d) 1 of the members of the Conference appointed under clause 5 (1) (f).

Appointment of members of the Executive Committee

25. (1) The appointment of the persons referred to in clause 24 is to be made at each annual meeting of the Conference.

(2) An appointment is to be made on nomination without seconding.

(3) A nomination of a person to be a member of the Executive Committee may be made:

- (a) if the person is a distribution sector member—only by a distribution sector member; or
- (b) if the person is a processor sector member—only by a processor sector member; or
- (c) if the person is a producer sector member—only by a producer sector member.

(4) If there are more nominations than vacancies an election is to be conducted in which all members of the Conference present at the meeting may vote.

(5) The election is to be conducted in accordance with the directions of the person presiding at the meeting and voting is to be by way of secret ballot according to a preferential system of voting.

Terms of office

26. (1) Persons referred to in clause 24 who are appointed members of the Executive Committee take office on the day of the annual meeting at

which they are appointed and hold office until the day immediately before the next annual meeting.

(2) Such persons are, if otherwise qualified, eligible for reappointment.

Casual vacancies

27. (1) A person holding office as a member of the Executive Committee (other than the Chairperson, a person appointed by the Minister or the General Manager) 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 of the Conference.

(2) If a vacancy occurs in the office of such a member of the Executive Committee (otherwise than by the expiration of a term of office), the association which appointed that person to the Conference is to nominate a member for appointment by the Conference to fill the vacancy.

(3) The member filling the vacancy holds office until the next meeting of the Conference.

PART 5—EXECUTIVE COMMITTEE MEETINGS

Executive Committee meetings

28. (1) Meetings of the Executive Committee are to be held at such times and in such places as the Executive Committee may determine.

(2) The Executive Committee may delegate to the Chairperson or the Executive Director the responsibility of determining the times and places of meetings.

Notice of meetings

29. At least 7 days before each meeting of the Executive Committee, the Executive Director is to send by post to each member of the Conference and Executive Committee:

- (a) a notice of the time and place of the meeting; and
- (b) a copy of the agenda for the meeting.

Quorum

30. (1) The quorum for a meeting of the Executive Committee is 7 members.

(2) However, if the number of members of the Executive Committee is at any time less than 7, those members may act for the purpose of summoning a meeting of the Conference but for no other purpose.

Presiding member

31. (1) Section 6C (1) of the Act provides that the Chairperson of the Conference is the Chairperson of the Executive Committee.

(2) The Deputy Chairperson of the Conference is to be the Deputy Chairperson of the Executive Committee.

(3) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Executive Committee.

(4) In the absence of both the Chairperson and the Deputy Chairperson, another member (other than the General Manager) elected to chair the meeting by the members present is to preside at a meeting of the Executive Committee.

(5) The person presiding at a meeting of the Executive Committee has a deliberative as well as a casting vote.

Submission of business

32. (1) Matters may be placed on the agenda for a meeting of the Executive Committee by any of the following:

- (a) the Chairperson;
- (b) the Conference;
- (c) an association referred to in clause 5 (1);
- (d) a member;
- (e) the Minister;
- (f) the Corporation.

(2) A matter not contained in an agenda for a meeting may be considered by the meeting if the majority of those present so decide.

Decisions of the Executive Committee

33. (1) A decision supported by a majority of the votes cast at a meeting of the Executive Committee at which a quorum is present is the decision of the Executive Committee.

(2) The General Manager does not have a vote at a meeting of the Executive Committee.

Notice of decisions

34. As soon as practicable after a meeting of the Executive Committee, the Executive Director is to send to each member of the Conference and the Executive Committee a record of the meeting.

PART 6—MISCELLANEOUS**Regularity of proceedings**

35. (1) Failure to give notice of a meeting of the Conference or the Executive Committee does not invalidate the proceedings of the meeting.

(2) Any communication required to be sent to a member of the Conference or the Executive Committee may be sent to the member at the last address notified to the Executive Director by the member.

Repeal

36. (1) The New South Wales Dairy Industry Conference Regulation 1986 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the New South Wales Dairy Industry Conference Regulation 1986, had effect under that Regulation is taken to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor modifications, the provisions of the New South Wales Dairy Industry Conference Regulation 1986. The Regulation makes provision in respect of the following matters:

- (a) the appointment or election and the terms of office of the members, Chairperson and Deputy Chairperson of the New South Wales Dairy Industry Conference (Part 2);

- (b) the procedure for the calling and holding of meetings of the Conference (Part 3);
- (c) the appointment and the terms of office of members of the Executive Committee of the Conference (Part 4);
- (d) the procedure for the calling and holding of meetings of the Executive Committee (Part 5);
- (e) other matters of a formal nature (Parts 1 and 6).

This Regulation is made under the Dairy Industry Act 1979, including section 6D (provisions relating to the constitution and procedure of the Dairy Industry Conference and Executive Committee).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
