

Queensland



DAIRY ADJUSTMENT PROGRAM AGREEMENT ACT 1977

DAIRY ADJUSTMENT PROGRAM AGREEMENT

Reprinted as in force on 28 March 1996

Reprint No. 1

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

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(Act not amended up to this date)**

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Information about this reprint

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Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit the enacting words (s 42A).

Also see endnotes for information about when provisions commenced.



DAIRY ADJUSTMENT PROGRAM AGREEMENT ACT 1977

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DAIRY ADJUSTMENT PROGRAM AGREEMENT ACT 1977

[reprinted as in force on 28 March 1996]

An Act to approve and ratify an agreement between the Commonwealth and the State of Queensland relating to the variation and extension of the dairy adjustment program

Short title

1. This Act may be cited as the *Dairy Adjustment Program Agreement Act 1977*.

Approval of agreement

2. The agreement set out in the schedule is approved and ratified.

SCHEDULE

section 2

AN AGREEMENT¹ made the 22nd day of September One thousand nine hundred and seventy-six between THE COMMONWEALTH OF AUSTRALIA (in this agreement called “the Commonwealth”) of the one part, and THE STATE OF QUEENSLAND (in this agreement called “the State”) of the other part.

WHEREAS—

- (A) by an agreement between the Commonwealth and the State (in this agreement called “the Principal Agreement”) constituted by an agreement made the 14 September 1970 and varied by and as so varied, set out in an agreement made the 11 December 1974 provision was made for assistance to the dairy industry under and in accordance with the *Marginal Dairy Farms Agreements Act* 1970-1974 of the Commonwealth Parliament (in this agreement called “the 1970-1974 Act”);
- (B) by the *Dairy Adjustment Act* 1974 the Commonwealth Parliament repealed the 1970-1974 Act and re-enacted and extended the provisions of that Act;
- (C) by virtue of sub-section 5 (1) of the *Dairy Adjustment Act* 1974 the Commonwealth may make with any State an agreement providing for the making of payments by the Commonwealth to the State for the purposes of a dairy adjustment program to be carried out by the State in accordance with arrangements set out in the agreement;
- (D) it is provided by sub-section 3 (2) of the *Dairy Adjustment Act* 1974 that, notwithstanding the repeal of the 1970-1974 Act, any agreement in force under that Act immediately before the commencement of the *Dairy Adjustment Act* 1974 continues in

¹ The operative provisions of the agreement are not reprinted in this reprint. They are reprinted as part of the reprint of the Dairy Adjustment Program Agreement which is bound with this reprint.

SCHEDULE (continued)

force after that commencement as if it had been made under the *Dairy Adjustment Act 1974* and as if the marginal dairy farms reconstruction scheme to be operated by a State in accordance with the agreement were a dairy adjustment program to be carried out by the State in accordance with arrangements set out in the agreement;

- (E) the Commonwealth and the State by agreement made the 2 October 1975 (in this agreement called “the amending agreement”) amended the Principal Agreement to bring its provisions into conformity with the *Dairy Adjustment Act 1974* and to extend the assistance that may be granted to the State under that Act;
- (F) the *Dairy Adjustment Act 1974* has been amended by the *Dairy Adjustment Amendment Act 1976* to enable a further extension of the assistance that may be granted and to increase in total amount the financial assistance that may be paid to the States under the Act; and
- (G) the Commonwealth and the State are in agreement that the Principal Agreement as varied by the amending agreement should be further varied as hereinafter set out in order that the extended assistance provided for by the *Dairy Adjustment Amendment Act 1976* may be granted to the State;

NOW IT IS HEREBY AGREED that as from the date of this agreement the Principal Agreement as varied by the amending agreement is further varied so that its provisions are as set out hereunder AND THAT, without prejudice to the continuance of the Scheme under and by virtue of the Principal Agreement or of the program under and by virtue of the Principal Agreement as varied by the amending agreement, the provisions set out hereunder shall on and after the date of this agreement have effect with respect to and shall apply to the operation of that scheme and that program:

SCHEDULE (continued)

SIGNED by the Right Honourable)
JOHN MALCOLM FRASER) MALCOLM FRASER
Prime Minister, in the presence of—)

K. E. HEYDON

SIGNED by the Honourable)
JOHANNES BJELKE-PETERSEN) JOH. BJELKE-PETERSEN
Premier, in the presence of—)

KEITH SPANN

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Dairy Adjustment Program Agreement Act 1977 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Dairy Adjustment Program Agreement Act 1977 No. 41

date of assent 23 September 1977

commenced on date of assent

Queensland



Dairy Adjustment Program Agreement Act 1977

DAIRY ADJUSTMENT PROGRAM AGREEMENT

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(agreement not varied up to this date)**

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- use standard punctuation consistent with current drafting practice (s 27)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35).

Also see endnotes for information about when provisions commenced.



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DAIRY ADJUSTMENT PROGRAM AGREEMENT

[This is a reprint of the Dairy Adjustment Program Agreement set out in the Dairy Adjustment Program Agreement Act 1977 No. 41, schedule]

I—DEFINITIONS

1. In this agreement,¹ unless the contrary intention appears—

“acquire” includes accept the surrender of a leasehold interest and
“acquisition” has a corresponding meaning.

“amalgamation” means the addition of reconstruction land to land held by
an applicant.

“applicant” means a person or persons applying to participate under the
Program and includes a company partnership or Crown
instrumentality or authority so applying.

“clause” means clause of this agreement.

“disposal” includes the surrender or grant of a leasehold interest and
“dispose of” has a corresponding meaning.

“economic unit” means a rural property which, in the opinion of the
Authority, has under average efficient management the continuing
capacity to produce a reasonable level of income, being a level that
provides a sufficient return on capital investment and an adequate
reward for the operator’s labour and management skill plus a margin
to permit needed development and adjustment to changing future
conditions.

“financial year” means a period of twelve months ending on the thirtieth
day of June.

¹ The non-operative provisions of this agreement are not printed in this reprint.
They are reprinted as part of the Dairy Adjustment Program Agreement Act
1977, which is bound with this reprint.

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“holding” means the land offered by an applicant for disposal under the Program.

“land” includes a leasehold interest in land.

“price” includes the consideration for the surrender of a leasehold interest.

“reconstruction land” means land acquired by the Authority under the Program.

“State” means the State of Queensland.

“structural improvements” includes houses, bails, sheds, fencing, stock yards and water supplies.

“the Act” means the *Dairy Adjustment Act* 1974 as amended at the date of this agreement and includes any amendments that may from time to time be made to that Act.

“the Authority” means the State or the instrumentality or authority designated by the State to operate the Program on behalf of the State.

“the Minister” means the Minister for Primary Industry of the Commonwealth and includes a Minister or other member of the Executive Council for the time being acting for that Minister.

“the Program” means the Dairy Adjustment Program operated by the State in accordance with the provisions of this agreement.

“the State Minister” means the Minister of the State from time to time responsible for the administration of the Program on the part of the State and includes a Minister of the State for the time being acting on behalf of that Minister.

“the State Treasurer” means the Treasurer of the State and includes a Minister of the State for the time being acting on behalf of the Treasurer of the State.

“the Treasurer” means the Treasurer of the Commonwealth and includes a Minister or other member of the Executive Council for the time being acting for the Treasurer.

“uneconomic dairy farm” means a rural property not less than one half of the gross income from which is obtained from the production of milk or cream that is derived from not less than twenty lactating cows, and

which rural property, if used only for dairying and purposes incidental to dairying, is not in the opinion of the Authority an economic unit.

II—OBJECTIVES

State to operate Program

2. The State shall operate a Dairy Adjustment Program in accordance with the provisions of this agreement.

Provision of financial assistance

3. The Commonwealth shall provide financial assistance to the State for the purposes of the Program upon the terms and conditions set out in this agreement.

Acquisitions and disposals

4. The Program shall—

- (a) to the extent that financial assistance is available to the State under this agreement and subject otherwise to the provisions of this agreement, provide for the making of agreements between the Authority and the owners of land comprised in uneconomic dairy farms in the State for the disposal of the land, including structural improvements thereon, to the Authority at prices based on market values current at the time of disposal; and
- (b) provide for the disposal by the Authority of land that becomes available for such disposal as a result of acquisitions under the Program, but so that—
 - (i) subject to the next succeeding sub-paragraph, the price or rent in respect of such a disposal shall be based upon market values current at the time of disposal, having regard to the type of land use proposed and, if the Authority so desires, after taking into account costs incurred by the Authority in respect of the land after acquisition;

- (ii) the applicant obtaining land from the Authority will not be required to pay for structural improvements on the land that in the opinion of the Authority are unsuitable or redundant in relation to the proposed use of the land by the applicant;
- (iii) land will not be disposed of for use primarily for dairying unless it is to be used as part of a rural property that constitutes at least an economic unit; and
- (iv) disposals will be made so as to encourage the most practicable and economic use of land.

Other forms of assistance

5. The Program may encompass such forms of assistance other than the assistance referred to in clause 4 as are provided for in this agreement, including assistance to persons to leave dairying.

III—OPERATION OF PROGRAM

A—AMALGAMATIONS

Eligibility of outgoing dairy farmers

6. Applicants wishing to dispose of holdings under the Program shall be eligible to participate in the Program provided that the holding concerned is an uneconomic dairy farm and the applicant has been operating the holding for a period of not less than two years prior to the date of the application to participate in the Program or for such other period as the State Minister or a person authorised by the State Minister for the purpose may deem appropriate where special circumstances obtain.

Acquisition of land by Authority

7.(1) When acquiring holdings under the Program the Authority will do so in accordance with the following—

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- (a) holdings shall be acquired at a price agreed by negotiation between the applicant or his nominated agent and the Authority;
- (b) holdings shall be acquired without plant or livestock;
- (c) the price shall be based on the current market value of the holding, including the value of structural improvements, according to the system of tenure under which the holding is held;
- (d) on completion of the acquisition the Authority shall receive an unencumbered title to the holding.

(2) The Authority will, upon acquiring a holding, make an estimate of the portion of the price of the holding that is attributable to structural improvements.

Approval to dispose

8.(1) Notwithstanding any other provision of this agreement, the Authority may give approval to the disposal by the owner of an uneconomic dairy farm of land comprised in the farm (including structural improvements to the land) to a person (in this clause referred to as ‘the purchaser’) other than the Authority provided that—

- (a) the price of the land and any improvements is based on market values current at the time of disposal;
- (b) the requirements specified in subparagraphs (iii) and (iv) of paragraph (b) of clause 4 are met; and
- (c) land shall not be disposed of for rural uses that are not primarily dairying unless it is to be used as part of a rural property that constitutes at least an economic unit.

(2) Where approval is given to the disposal of land in accordance with sub-clause (1) of this clause the Authority may, for the purpose of assisting the purchaser to acquire the land—

- (a) pay to the purchaser an amount equal to the amount by which the price to be paid by the purchaser exceeds the price that he would have been required to pay if he had acquired the land from the Authority under the Program; and
- (b) make a loan to the purchaser of an amount not exceeding the

amount by which the price exceeds the amount referred to in sub-paragraph (a) of this sub-clause.

Use of land held by Authority

9. Pending disposal reconstruction land may be utilised by the Authority as it deems fit, including short term lease.

Eligibility of applicants applying for reconstruction land

10. Applicants wishing to obtain reconstruction land will be eligible to participate in the Program provided that—

- (a) where the reconstruction land is to be used for amalgamation—the applicant is the owner of land or the occupier of land under the Crown Lands or other pertinent legislation of the State, such land being, in the opinion of the Authority, suitable for amalgamation; and
- (b) where the reconstruction land is not to be used for amalgamation—the applicant wishes to obtain the land for a forestry undertaking or for any other purpose except dairying, the Authority being satisfied that it is appropriate to use the land for that purpose.

Disposal of land by Authority

11. When disposing of reconstruction land or when providing assistance to an applicant to purchase land under the Program, the Authority will do so in accordance with the requirements specified in sub-paragraphs (iii) and (iv) of paragraph (b) of clause 4 and paragraph (1) (c) of clause 8.

Manner of disposal of land by Authority

12.(1) The Authority may for the purpose of the implementation of the Program dispose of reconstruction land in such manner as it may determine in keeping with the objectives of the Program.

(2) Holdings acquired by the Authority may be sold as a whole or in parts or together with other reconstruction land, according to individual

circumstances.

(3) In the event of there being more applicants of apparent equal merit for reconstruction land than can be satisfied, allotment may be decided by ballot.

Terms and conditions of disposal

13.(1) Reconstruction land disposed of under the Program shall be disposed of for a tenure and on terms and conditions that accord with the practice in the State and the provisions of this agreement.

(2) The terms and conditions shall be based on fair market value at the time of disposal having regard to the tenure and to the type of land use proposed.

(3) The terms and conditions of disposal for amalgamation shall include conditions prohibiting the disposal, after amalgamation, by any means of any interest in any part of the amalgamated property during any period in respect of which money is owed or payable to the Authority by the applicant who obtains the reconstruction land, except with the consent of the State Minister or a person authorised by the State Minister for the purpose.

(4) Those structural improvements on reconstruction land disposed of by the Authority and which the Authority indicates as being available for purchase and which the applicant designates as being useful will be sold to the applicant at values agreed with the Authority according to their usefulness to the applicant after amalgamation.

(5) Where the purchaser of reconstruction land is the owner of a rural property and has acquired the land under the Program for the purpose of incorporating it into the rural property and that incorporation has had the effect of causing structural improvements that were, at the time of acquisition, on the rural property to become unsuitable or redundant in relation to the proposed use by the purchaser of the combined property, the Authority may pay to the purchaser an amount in respect of the loss of value to the purchaser of those improvements.

(6) Assistance as provided in the preceding paragraph shall not be given with respect to structural improvements that are not ordinarily used for dairy purposes unless the giving of the assistance is approved by the

Minister or a person authorised by the Minister for the purpose and by the State Minister or a person authorised by the State Minister for the purpose.

Disposal of redundant assets

14.(1) Structural improvements on reconstruction land which are not purchased by an applicant as provided in sub-clause (4) of clause 13 and which the Authority considers might otherwise be used for dairying shall be disposed of by tender, public auction or otherwise, for removal or in situ with a small area of land.

(2) Structural improvements which the Authority is satisfied will not be used for dairying may be dealt with as the Authority considers fit.

Assistance to develop land

15.(1) Subject to sub-clause (2) of this clause, the Authority may, on such terms and conditions as the Authority sees fit—

- (a) make loans to persons who have acquired land under the Program, being loans for the purpose of developing the land acquired, by one or more of the following methods, as a rural property:—
 - (i) the improvement of, or the erection of structural improvements on that land;
 - (ii) the purchase of livestock and equipment; and
- (b) make loans to persons referred to in paragraph (a) for the purpose of meeting the whole or a part of the cost of working the land acquired as a rural property during the period of development.

(2) The assistance provided for by this clause shall not be given unless the Authority is satisfied that the person concerned has been unable to obtain a loan on reasonable terms from normal financial sources for the purposes for which the assistance is to be given.

Land not in uneconomic dairy farm

15A. Notwithstanding any other provision of this agreement, the Authority may, where the Minister or a person authorised by the Minister

for the purpose and the State Minister or a person authorised by the State Minister for the purpose are satisfied that a proposed acquisition or a proposed disposal (including a disposal referred to in clause 8), or a proposed acquisition and subsequent disposal, under the Program of land comprised in a rural property, not being an uneconomic dairy farm, would assist adjustment in the dairying industry, deal with the land under the Program as proposed as if the property were an uneconomic dairy farm.

B—CHANGEOVER TO REFRIGERATED BULK MILK DELIVERY

Loans for installation of vats

15BA.(1) Subject to clause 15BC, the Authority may make interest-free loans to the owners of dairy farms for the purpose of—

- (a) meeting, in the case of a particular farm, the cost of the purchase and installation on the farm of a refrigerated vat of such size and standards as may from time to time be agreed by the Minister or a person authorised by the Minister for the purpose and the State Minister or a person authorised by the State Minister for the purpose, for the storage of whole-milk intended for use as fluid milk for human consumption or in the manufacture of butter, cheese or other products; and
- (b) making such other improvements on the farm as are required to enable the whole-milk in the vat to be collected from the farm.

(2) This clause shall be deemed for the purposes of this agreement to have come into effect on the 21 August 1974 and to be operative in respect of a purchase and installation effected or improvements made on and from that date.

Repayment of borrowings

15BB. Subject to clause 15BC, the Authority may make interest-free loans to the owners of dairy farms for the purpose of repaying amounts borrowed by them on or after the 23 July 1973 and before the 21 August 1974 for a purpose specified in clause 15BA and not repaid, and may make

payments for the purpose of reimbursing the owners of dairy farms for the interest paid by them on moneys so borrowed.

Conditions for loans

15BC.(1) Before a loan is made under the Program in accordance with clause 15BA or clause 15BB, the Authority will consult with the management of the factory which the applicant supplies to satisfy itself that the factory proposes to make bulk milk collections from the applicant's farm during the period that the applicant will be required to repay the loan.

(2) The assistance provided for by clauses 15BA and 15BB shall not be given under the Program in the case of a particular farm unless the Authority is satisfied that there is a reasonable prospect that, by reason of the assistance and considering other assistance provided under the Program in respect of the farm, the farm will be an economic unit.

(3) It shall be a condition of a loan under the Program in accordance with clause 15BA or 15BB that the borrower is to be liable to make additional payments, as determined by the Authority, in the event of failure to repay an instalment of the loan on, or within a specified period after, the due date for that repayment. Such payments may take the form of interest calculated on the outstanding balance of the loan at a rate determined by the Authority.

C—DEVELOPMENT ASSISTANCE

Loans for development

15CA. The Authority may make loans to the owners of uneconomic dairy farms, on such terms and conditions as the Authority deems appropriate in the circumstances of the case, for the purpose of meeting, in the case of a particular farm—

- (a) the cost of developing the farm to the point where the farm has the continuing capacity to produce from dairying or activities incidental to dairying a reasonable level of income, being a level which makes the farm an economic unit; and
- (b) the whole or a part of the cost of carrying on the farm during the period of development.

Availability of other finance

15CB. Assistance under the Program in accordance with clause 15CA shall not be given unless the Authority is satisfied that the person to be assisted has been unable to obtain a loan on reasonable terms from normal financial sources for the purposes for which the assistance is given.

D—DIVERSIFICATION ASSISTANCE**Loans and payments for conversion**

15DA. Subject to clause 15DB, the Authority may—

- (a) make loans to the owners of uneconomic dairy farms, on such terms and conditions as it deems appropriate, for the purpose of meeting, in the case of a particular farm, the cost of converting by one or more of the following methods, the farm, wholly or in part, to a rural use other than dairying:
 - (i) the acquisition of land adjoining, or within a reasonable working distance of, the farm for the purpose of working that land and land comprised in the farm as a single unit;
 - (ii) the improvement of, or the erection of structural improvements on land comprised in the farm, including any land referred to in sub-paragraph (i);
 - (iii) the purchase of livestock or equipment;
- (b) make loans to the owners of uneconomic dairy farms that are, wholly or in part, being converted to a rural use other than dairying for the purpose of meeting, in the case of a particular farm, the whole or a part of the cost of carrying on the farm during the period of conversion;
- (c) where fixtures or personal property (including livestock) used for dairying on an uneconomic dairy farm that is, wholly or in part, being converted to a rural use other than dairying will lose some or all of its or their value to the owner of the farm after the conversion has been effected—pay to the owner of the farm an amount equivalent to the loss in value which the Authority considers has occurred.

Conditions of assistance for conversion

15DB. Assistance under the Program in accordance with clause 15DA shall not be given in the case of a particular farm unless the Authority is satisfied that—

- (a) the proposed use of land comprised in the farm (including any land proposed to be acquired) will be a more practicable and economic use of the land than dairying;
- (b) there is a reasonable prospect that, by reason of the assistance, the farm (including any land proposed to be acquired) will produce a reasonable level of income, being a level which makes the farm an economic unit; and
- (c) the person to be assisted has been unable to obtain a loan for the relevant purpose on reasonable terms from normal financial sources.

Payments for loss on fixtures and personal property upon full conversion

15DC.(1) Subject to sub-clause (2), the Authority may where—

- (a) a rural property, being—
 - (i) an uneconomic dairy farm; or
 - (ii) a property a part (being a part less than one-half) of the gross income from which comes from the production of milk and cream and which, if used only for dairying and purposes incidental to dairying, is not an economic unit,
is to be converted, wholly or in part, to a rural use other than dairying; and
- (b) fixtures or personal property (including live-stock) used on the farm for dairying will lose some or all of their or its value to the owner of the farm after the conversion has been effected,

make a payment to the owner of the farm of an amount equivalent to the loss in value which the Authority considers has occurred.

(2) Assistance under the Program in accordance with this clause shall not be given in the case of a particular farm unless the owner accepts

cancellation of registration of the farm as a dairy farm under the *Dairy Produce Act* 1920-1974 of the State.

E—REHABILITATION ASSISTANCE

Loans on disposal

15E.(1) The Authority may make loans (including interest-free loans) on such terms and conditions as it deems appropriate in the circumstances of the case, to persons, who after the 21 August 1974 have disposed of, or dispose of, to or with the approval of the Authority rural properties that are at the time of disposal uneconomic dairy farms, being loans for the purpose of alleviating conditions of personal hardship being borne by the person concerned or a dependant of that person.

(2) The maximum amount for a loan made in accordance with this clause shall be 5,000 dollars in any one case or such other amount as may be agreed from time to time by the Minister and the State Minister.

EA—CONVERSION OF DAIRY FACTORIES

Loans to meet factory conversion costs

15EA.(1) Subject to this clause, the Authority may make loans on such terms and conditions as it deems appropriate, to the owners of dairy factories in the State for the purpose of meeting, in the case of a particular factory, the whole or part of the costs incurred by the owner of the factory after the 1 July 1974 in connexion with any alterations (including structural alterations) made, vehicles purchased and plant and equipment purchased and installed after that date, being alterations, vehicles, plant and equipment—

- (a) that were required to provide adequate facilities—
 - (i) for the supply of wholemilk as refrigerated bulk milk to the factory; or
 - (ii) for the receipt, storage or processing of the wholemilk at the

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factory,

in consequence of suppliers of wholemilk to the factory having recently commenced, whether before or after the commencement of the Act, to supply wholemilk to the factory as refrigerated bulk milk; or

- (b) that the State Minister or the Authority (where the Authority is not the State) is satisfied are required to provide adequate facilities of a kind specified in paragraph (a) for the purpose of enabling suppliers of wholemilk to the factory to commence to supply wholemilk to the factory as refrigerated bulk milk.

(2) The assistance provided for by this clause for alterations, plant and equipment for the processing of wholemilk shall be given, in the case of a particular dairy factory, only with respect to alterations, plant and equipment required in accordance with sub-clause (1) for the processing of wholemilk so supplied preparatory to the manufacture of any product derived from the wholemilk, unless the giving of the assistance is approved by—

- (a) the Minister or a person approved by the Minister for the purpose; and
- (b) the State Minister.

(3) The assistance provided for by this clause shall not be given unless the State is satisfied that the owner to be assisted has been unable to obtain a loan on reasonable terms from normal financial sources for the purposes for which the assistance is to be given.

(4) In this clause, a reference to the processing of wholemilk has the same meaning as that reference has when used in the Act.

EB—CARRY-ON ASSISTANCE

15EB.(1) The Authority may make loans upon the terms and conditions set out in sub-clause (3) to the owners of dairy farms for the purpose of meeting, in the case of a particular farm, the whole or a part of the cost of carrying on the farm during a period of adverse market conditions.

(2) The assistance provided for by this clause shall not be given in the case of a particular farm unless the State Minister or the Authority (where

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the Authority is not the State) is satisfied that—

- (a) the dairy farm is for the time being an uneconomic dairy farm but would cease to be an uneconomic dairy farm if satisfactory market conditions were restored; and
- (b) the owner to be assisted has been unable to obtain a loan on reasonable terms from normal financial sources for the purpose referred to in sub-clause (1).

(3) A loan made in accordance with this clause shall—

- (a) be for an amount not greater than 4 000 dollars;
- (b) be repayable by the owner over a period of up to 7 years;
- (c) bear interest at the rate of 4 per centum per annum;
- (d) be subject to a repayment holiday of 12 months following the making of the loan to the owner during which period interest that accrues in respect of the loan shall be capitalised; and
- (e) be made subject to the condition that the Authority may review the position of the particular owner after 12 months with a view to modification of the terms of the loan under (b) and (c) above towards the usual commercial terms then applicable to loans for the purpose of carrying on dairy farms.

(4) The criteria for making loans to owners referred to in sub-clause (2) and the terms and conditions upon which those loans are to be made referred to in sub-clause (3) may, subject to the provisions of the Act, be varied at any time after the date of this agreement by agreement in writing between the Minister and the State Minister.

F—GENERAL

Position of Authority

16A. The Authority shall not be under any obligation under the Program to acquire any particular holding or approve of any particular application.

Other operational arrangements

16B. Matters in connexion with the Program not provided for in this agreement (other than financial arrangements) shall be carried out as agreed from time to time by the Minister and the State Minister.

IV—FINANCIAL ARRANGEMENTS**Financial assistance**

17.(1) Subject to and to compliance by the State and the Authority with the provisions of this agreement, the Commonwealth shall, in accordance with and subject to the provisions of this agreement, provide, out of a total amount available to all the States ascertained as provided in clause 18, financial assistance to the State for the purposes of the Program.

(2) The financial assistance referred to in sub-clause (1) shall be provided in respect of expenditure by the Authority in accordance with applications lodged with and approved by the Authority before the 1 January 1977 or such later date as is fixed by Proclamation in accordance with section 17 of the Act and shall consist of amounts which are—

- (a) in the case of applications made for carry-on loans provided for in clause 15EB—equal to half of the amounts expended by the Authority in accordance with those applications; and
- (b) in the case of other applications made under the Program—equal to the whole of the amounts expended by the Authority in accordance with those applications.

(3) For the purpose of this Part financial assistance is classified as that provided in respect of—

- (a) loans and payments in relation to the change-over to refrigerated bulk milk delivery in accordance with clauses 15BA and 15BB;
- (b) loans in relation to the conversion of dairy factories in accordance with clause 15EA;
- (c) carry-on loans in accordance with clause 15EB; and

- (d) other expenditure by the Authority in accordance with the Program.

Total financial assistance

18. Notwithstanding anything contained in this agreement, the Commonwealth shall not be obliged to make payments of financial assistance to the State under this agreement if the making of the payment would mean that payments by the Commonwealth under this agreement and under agreements with other States in respect of like Programs would exceed in total—

- (a) the amount of 46,500,000 dollars; or
- (b) if the Parliament of the Commonwealth appropriates any further amount or amounts for the purposes of the Act—the sum of 46,500,000 dollars and that amount or those amounts.

Advances

19.(1) The Treasurer may, at such times and in such amounts as he thinks fit, make advances on account of the payments that may be made by the Commonwealth under clause 21.

(2) An amount or part of an amount advanced by the Treasurer under this clause may be deducted by the Commonwealth from an amount that subsequently becomes payable under clause 21 or, if no further amounts will become payable under that clause, shall be refunded by the State to the Commonwealth at the request of the Treasurer.

Use of advances

20. The State shall ensure that an amount or any part of an amount advanced to the State and not refunded under the last preceding clause is not used or applied except for the operation of the Program.

Payments of financial assistance

21. The Commonwealth shall, from time to time, at the request of the State and subject to the provisions of this agreement make payments to the

State of the financial assistance to be provided to the State under this agreement.

Supporting financial evidence

22.(1) The State shall furnish to the Treasurer such documents and other evidence to justify the making of an advance under clause 19 or in support of a request by the State for a payment to it by the Commonwealth under clause 21 as the Treasurer may from time to time reasonably request, whether the request by the Treasurer is made before or after the Commonwealth has made the advance or a payment pursuant to the request by the State.

(2) Any statement of expenditure by the State furnished to the Treasurer in connexion with a request for a payment under clause 21 shall be certified by the Auditor-General of the State as to its correctness in accordance with the books and documents of the Authority.

Interest

23. Interest at the rate of six per centum per annum shall accrue in respect of so much of each amount that has been advanced or paid to the State under this agreement in respect of expenditure referred to in paragraph (3) (d) of clause 17 as is repayable and has not for the time being been refunded or repaid to the Commonwealth calculated from the date upon which the advance or payment was made by the Commonwealth and compounded with half-yearly rests.

Repayments

24.(1) Subject to the provisions of this clause, the State shall repay to the Commonwealth the whole of the payments made to the State under clause 21 in respect of assistance by way of loans referred to in paragraphs (3) (a) and (3) (b) of clause 17 and of the advances of such assistance made to the State and not refunded under clause 19 by twenty (20) equal consecutive half-yearly payments, the first payment to be made on the fifteenth day of July of the first financial year that wholly occurs after the payment or advance was made by the Commonwealth to the State and subsequent payments to be made on each succeeding fifteenth

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day of January and fifteenth day of July until the full amount of the repayment has been paid.

(1A) Subject to the provisions of this clause, the State shall repay to the Commonwealth one half of each payment made to the State under clause 21 in respect of assistance referred to in paragraph (3) (d) of clause 17 and one half of so much of each advance of such assistance made to the State and as is not refunded under clause 19, together with the interest referred to in clause 23, by forty-six (46) equal consecutive half-yearly payments, the first payment to be made on the fifteenth day of July of the second financial year that wholly occurs after the payment or advance was made by the Commonwealth to the State and subsequent payments to be made on each succeeding fifteenth day of January and fifteenth day of July thereafter until the full amount of the repayment, including interest, has been paid.

(2) The State shall, by way of repayment of the assistance referred to in sub-paragraph (3) (c) of clause 17, pay to the Commonwealth by payments in accordance with sub-clause (3) the amount that is calculated by subtracting—

- (a) an amount which is one half of the administration expenses incurred by the Authority in providing that assistance,

from—

- (b) an amount which is one half of the principal and interest repaid to the Authority by the recipients of that assistance.

(3) The State shall pay to the Commonwealth so much as is from quarter to quarter calculated to be payable of the amount referred to in sub-clause (2) by consecutive quarterly payments, the first payment to be made on the fifteenth day of July, October, January or April that occurs after the first repayment of principal and interest made by a recipient of the assistance to the Authority and subsequent payments to be made on each succeeding fifteenth day of October, January, April and July, thereafter until no further amount is payable by the State in pursuance of its obligation under sub-clause (2).

Prepayments

25.(1) In addition to making payments in accordance with clause 24, the State may on the fifteenth day of January or on the fifteenth day of July in

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any year, after the State Treasurer has given to the Treasurer notice in writing of at least one month of the intention to do so, pay to the Commonwealth an amount that has been specified in the notice of the repayments that remain to be made by the State under that clause.

(2) Interest at the rate of six per centum per annum shall accrue on amounts paid by the State in respect of assistance under paragraph (3) (d) of clause 17 in accordance with sub-clause (1) of this clause, calculated from the date of payment and compounded with half-yearly rests on each fifteenth day of January and fifteenth day of July.

(3) When on any fifteenth day of January or fifteenth day of July the payment due by the State under clause 24 exceeds the amount by which the unrepaid balance of the total amount repayable under that clause together with (where applicable) interest accrued on that total amount up to and including that date exceeds the total of the amounts paid by the State to the Commonwealth in accordance with sub-clause (1) of this clause together with (where applicable) interest accrued on those amounts up to and including that date under sub-clause (2) of this clause, the State shall pay to the Commonwealth the amount of the second-mentioned excess in lieu of the amount due under clause 24 and no further payments shall be required to be made by the State to the Commonwealth under that clause.

(4) The provisions of this clause do not apply in respect of the assistance referred to in paragraph (2) (a) of clause 17 or to the manner of repayment thereof referred to in sub-clause (2) and (3) of clause 24.

Financial administration and adjustments

26.(1) The State agrees that the Authority will as far as practicable operate the Program in such a way that, taking into account its experience with other programs of rural assistance and the normal expectations as to factors that affect farmers' incomes that are current at the date of this agreement, the amount received by the Authority in the course of the operation of the Program could be reasonably expected to equal the Authority's costs of administration and the payments of principal and interest which the State is required to make to the Commonwealth under this agreement.

(2) Should the State certify that after allowing for the Authority's administration costs, the Authority incurred losses under the Program from

circumstances beyond its control arising after the date of this agreement and disadvantageous compared with past experience and normal expectations as to factors that affect farmers' incomes referred to in sub-clause (1) of this clause, the Commonwealth agrees to review the position with the State with a view to adjusting amounts payable to the Commonwealth by the State under this agreement to the extent of such losses.

(3) The provisions of this agreement in relation to the times at which payments are to be made by the State to the Commonwealth and the amounts of the payments that are to be made may be varied in such manner as is agreed between the Commonwealth and the State upon a review carried out in accordance with sub-clause (2) of this clause.

Financial estimates

27. The State shall prepare and furnish to the Treasurer not later than the thirtieth day of April in each year a statement or statements showing the estimated expenditure necessary to operate the Program during the next financial year and estimates of the amounts that the State will request the Commonwealth to pay to the State under this agreement during that financial year.

Audit

28.(1) The accounts, books, vouchers, documents and other records of the Authority relating to the operation of the Program shall be subject to audit by the Auditor-General of the State.

(2) Until such time as the total amount of the financial assistance to be provided to the State has been provided by the Commonwealth and applied by the State in accordance with this agreement and supporting evidence to the satisfaction of the Treasurer in relation to all amounts advanced or paid by the Commonwealth has been furnished by the State a report on the audits in respect of each financial year shall be furnished by the Auditor-General of the State to the Treasurer as soon as possible after the completion of the financial year, indicating whether the expenditure of moneys is in accordance with this agreement and including reference to such other matters arising out of the audits as the Auditor-General of the State considers should be reported to the Treasurer.

Other financial arrangements

29. Financial arrangements in connexion with the Program other than those provided for in this agreement shall be carried out as agreed from time to time between the Treasurer and the State Treasurer.

V—GENERAL PROVISIONS**State to secure performance**

30. The State shall provide for and secure the performance by State instrumentalities of its obligations under this agreement.

Reporting

31. The State shall report to the Commonwealth on the progress and conduct of the Program at the intervals and in the form agreed from time to time by the Minister and the State Minister or by their respective delegates in that behalf.

Consultation

32. The Commonwealth or the State when requested by the other shall arrange for consultations between officers of the Commonwealth and the State on any matters in connexion with the Program.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Dairy Adjustment Program Agreement may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Dairy Adjustment Program Agreement [1977] (Dairy Adjustment Program Agreement Act 1977 No. 41 sch)

date of assent of Act 23 September 1977

commenced on date of assent