

# **Dairy Industry Restructuring Amendment Bill (No 3)**

Government Bill

## **Explanatory note**

### **General policy statement**

Subparts 5 and 5A of Part 2 of the Dairy Industry Restructuring Act 2001 promote the efficient operation of dairy markets in New Zealand by regulating the activities of the dominant market player (Fonterra) to ensure that New Zealand markets for dairy goods and services are contestable.

Fonterra's share of the market for farmers' milk has reduced from 96% in 2001 to around 80% in 2019. Despite its reduced market share, Fonterra retains significant market power in terms of its national scale, large market share, and incumbency advantage. It is therefore necessary to continue regulating the activities of Fonterra to promote the efficient operation of dairy markets in New Zealand.

However, changes to how Fonterra is regulated are needed to remove some regulatory requirements that are no longer necessary, to support and encourage better environmental performance of the dairy industry, to provide Fonterra with more flexibility to manage some aspects of its operations, and to provide increased clarity on aspects of the regulatory regime for both Fonterra and other dairy industry stakeholders. The Bill therefore provides for a package of measures to maintain regulatory disciplines on Fonterra's activities and enhance aspects of the dairy industry's performance as above.

This Bill amends subparts 5 and 5A of Part 2 of the Dairy Industry Restructuring Act 2001 to—

- allow Fonterra to decline applications from dairy farmers to become shareholders in, and supply milk to, Fonterra if it is unlikely that the applicant would comply with Fonterra's terms of supply. This is intended to support Fonterra's ability to manage aspects of farmers' on-farm performance more effectively and address reputational risks to Fonterra, and the dairy industry in general, that may arise from poor environmental, or other, on-farm performance:

- clarify that Fonterra's terms of supply can include, and price differentiate on the basis of, for example, environmental, animal welfare, employment matters, and health and safety requirements. This will ensure that Fonterra is fully able to reward excellent on-farm performance of its farmer-shareholders as part of its business and strategic direction. Fonterra and its farmer-shareholders are expected to fully utilise the flexibility afforded by these amendments, including better management of discharges and greenhouse gas emissions:
- provide Fonterra with discretion to refuse applications to become shareholders in, and supply milk to, Fonterra if milk is supplied from newly converted dairy farms. This is to enable Fonterra to better manage uncertainty of future milk supply that may arise from dairy conversions, and the associated impacts on Fonterra's processing capacity and investment decisions:
- allow Fonterra to issue capacity constraint notices for a period of up to 3 dairy seasons, rather than 1 season, as now. This would provide Fonterra with more flexible and realistic time frames to plan and manage its future capacity investment:
- limit Fonterra's discretion with regard to setting a key assumption (the asset beta) in its base milk price calculation. This is to reduce the risk of Fonterra using its discretion in a way that may impose higher than efficient costs on new and existing dairy processors, including Fonterra itself, while retaining the essence of the existing light-handed milk price monitoring regime administered by the Commerce Commission:
- require Fonterra to appoint 1 member of its Milk Price Panel on the nomination of the Minister of Agriculture. This is intended to further support the independence of Fonterra's Milk Price Panel:
- require the Minister of Agriculture to carry out periodic time-bound reviews of whether the provisions of subparts 5 and 5A of Part 2 of the Dairy Industry Restructuring Act 2001 should be retained, repealed, or amended. This would provide regulatory certainty and a clear time frame within which the dairy industry can plan and operate.

This Bill also amends the Dairy Industry Restructuring (Raw Milk) Regulations 2012 to—

- reduce independent processors' eligibility to purchase up to 50 million litres of raw milk from Fonterra. Eligibility will cease once an independent processor has its own raw milk supply of 30 million litres or more in a single season (rather than 3 seasons, as now), sourced from dairy farmers or the wholesale raw milk market. This recognises that access to regulated milk from Fonterra is no longer essential to support investment in new large-scale dairy processing facilities in New Zealand. At the same time, it maintains access to regulated milk for smaller processors that predominantly service the New Zealand domestic consumer market.

- update the regulated terms on which Goodman Fielder (the only other large scale supplier of fresh milk to the New Zealand domestic consumer market) can purchase raw milk from Fonterra. This is to ensure that New Zealand consumers continue to have choice and access to basic dairy staples supplied by more than 1 processor at scale.

In addition, the Bill provides for a number of minor and technical changes to subparts 5 and 5A of Part 2.

The Bill also amends subpart 4 of Part 2 of the Dairy Industry Restructuring Act 2001 to reflect changes in responsibility for the management of the New Zealand Dairy Core Database (the **core database**). Until 2014, Livestock Improvement Corporation Limited was responsible for managing the core database. That role is now carried out by DairyNZ, an industry good body, in accordance with the wish of the dairy industry. The Bill reflects the change in manager, and makes a number of consequential updates.

### Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=166>

### Regulatory impact assessments

The Ministry for Primary Industries produced regulatory impact assessments in April 2014, July 2014, and May 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—

- <https://www.mpi.govt.nz/dmsdocument/3917-requirements-on-livestock-improvement-corporation-and-the-role-of-the-access-panel-regulatory-impact-statement/sitemap>
- <https://www.fisheries.govt.nz/dmsdocument/16810-transfer-of-the-dairy-core-database-and-herd-improvement-regulatory-review-regulatory-impact-statement/sitemap>
- <https://www.mpi.govt.nz/dmsdocument/34782-mo-redactions-for-public-release-regulatory-impact-assessments-watermarked-redacted>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* relates to commencement. The Bill comes into force on 1 June 2020.

*Clause 3* states that the Act amends the Dairy Industry Restructuring Act 2001 (the **principal Act**).

## Part 1

### Main amendments to principal Act

*Clause 4* amends section 4 (the purpose section) to remove a reference to establishing Livestock Improvement Corporation Limited (**LIC**).

*Clause 5* amends section 5 (the interpretation section) to—

- insert new definitions of constitution, entity, intended manager, manager of the core database, and previous manager; and
- insert new definitions of farm gate milk price, kilograms of milk solids, organic milk, raw milk, total cost of milk, total organic milk premium, and total winter milk premium based on definitions in the Dairy Industry Restructuring (Raw Milk) Regulations 2012; and
- insert the definition of government agency that previously applied only in section 148; and
- replace the definition of core database with a definition that refers to the manager of the core database, a previous manager, and an intended manager, rather than LIC; and
- replace panel with Access Panel as the term for the New Zealand Dairy Core Database Access Panel.

*Clause 6* inserts—

- *new section 5A*, which relates to the status of examples; and
- *new section 5B*, which gives effect to transitional, savings, and related provisions set out in *new Schedule 1*.

*Clause 7* replaces the subpart 4 heading in Part 2 so that it refers only to management of the core database (and does not refer to LIC).

*Clause 8* updates section 43, which is the overview section for subpart 4 of Part 2.

*Clause 9* repeals the cross-heading after section 43, which relates to the now-completed restructuring of LIC and is redundant.

*Clause 10* inserts *new section 43A*, which provides that the constitution of the manager of the core database (the **manager's constitution**) must be read as requiring the manager to retain the database.

*Clause 11* repeals section 61 and the cross-heading above it. Section 61 is a spent transitional provision that relates to the now-completed restructuring of LIC.

*Clauses 12 to 15* amend sections 62 to 65 to replace references to LIC with references to the manager of the core database.

*Clause 16* replaces section 65A with *new sections 65A to 65D*. *New sections 65A to 65C* empower the making of regulations that—

- appoint an entity as manager of the core database:
- name an entity as an intended manager of the core database:
- regulate a previous or an intended manager of the core database.

Under *new section 65D*, regulations made for a previous or an intended manager of the core database are automatically revoked after 5 years, unless an Order in Council is made confirming that the regulations will remain in force.

*Clause 17* amends section 66 to replace references to LIC or another entity nominated by the Crown to manage the core database with references to the manager of the core database.

*Clause 18* replaces section 68, under which the core database reverts to the Crown if a liquidator is appointed for LIC or LIC is removed from the companies register. *New section 68* provides for the management of the core database to revert to the Crown—

- if the Minister and the manager of the core database agree that *new section 43A(1)* no longer applies (under that section the manager's constitution must be read as requiring the manager to retain the core database); or
- in other specified situations that are similar to, but more extensive than, those currently provided for in section 68.

*Clause 19* repeals section 69, which preserved the Herd Testing Regulations 1958 and treated them as having been made under the principal Act. *Clause 35* revokes those regulations.

*Clause 20* amends section 73, which requires new co-op to accept applications from new entrants that are made in an application period. The amendment—

- extends the notification requirement to include actions taken by Fonterra under the exceptions to the open entry rule that are created by existing sections 94 and 95, and by *new sections 96A and 96H* in *clause 22*:
- includes a list of associated sections that relate to the exceptions to the open entry rule.

*Clause 21* amends section 86 to allow capacity constraint notices to apply to a geographic region for up 3 seasons rather than 1 season.

*Clause 22* inserts *new sections 96A to 96J* to provide for 2 new exceptions to the open entry rule and allow Fonterra to reject an application to become a shareholding farmer and supply milk, or to increase supply from an existing shareholding farmer. In summary,—

- the new exception in *new section 96A* (the **third exception**) applies if the application relates to the supply of milk from a new collection point. A collection point is a place containing a milk vat, or milk vats, from which milk can be collected. A collection point is new if it has not been used in the last 5 years to

supply milk as part of a business (unless it is a replacement collection point under *new section 96C*):

- the third exception allows Fonterra to reject the application if more than 50% of the production land that is used to produce the milk for supply to the new collection point is new production land. Land is new production land if it has not been used in the last 5 years as part of the production land of a business:
- *new section 96B* sets out definitions relating to the third exception:
- *new section 96C* sets out when a collection point replaces another collection point. In that case, the collection point is not new and the third exception does not apply:
- *new section 96D* deals with the situation where an application relates to 2 or more collection points. In that case, Fonterra must apply *new section 96A* separately to each collection point as if separate applications had been made for each collection point:
- *new section 96E* requires Fonterra to accept certain evidence as conclusive evidence that *new section 96A* does not apply. For example, a receipt for milk collection or other documents from an independent processor that clearly indicate that the independent processor has accepted milk from the collection point:
- *new section 96F* specifies the procedure that applies if Fonterra relies on the third exception, and requires the procedure to be followed before Fonterra can reject an application under the third exception:
- *new section 96G* specifies disclosure requirements that apply if Fonterra rejects an application under the third exception:
- the new exception in *new section 96H* (the **fourth exception**) allows Fonterra to consider rejecting an application to become a shareholding farmer, or to increase supply from an existing shareholding farmer, where it is evident that the applicant could not meet Fonterra's terms of supply:
- *new section 96I* specifies the procedure that applies if Fonterra relies on the fourth exception, and requires the procedure to be followed before Fonterra can reject an application under the fourth exception:
- *new section 96J* specifies disclosure requirements that apply if Fonterra rejects an application under the fourth exception.

*Clause 23* amends section 106 to enable Fonterra to provide for differential pricing for milk in its terms of supply, subject to the existing anti-discrimination provisions.

*Clause 24* amends section 115 to allow regulations to be made that—

- require Fonterra and independent processors to provide periodic returns for any milk solids bought from, or sold to, other processors or other persons who are not producers or processors:
- prescribe further kinds of evidence that Fonterra must accept as conclusive for the purposes of *new section 96E*.

*Clause 25* replaces section 134, which requires Fonterra to pay a levy. *New section 134* provides for a more flexible levy-setting process. This includes providing for—

- the levy to apply to, and be calculated in respect of, more than 1 financial year (but with the levy still being collected in each of those years from Fonterra); and
- shortfalls in recovering the Commerce Commission's actual costs. This may allow, for example, a reconciliation of the levy against the levy that would have been payable had the levy calculation used the actual costs, and invoicing Fonterra for the amount that was under-recovered.

*Clause 26* amends section 145, which specifies sections of the Commerce Act 1986 that apply. Sections 74A to 75C (which relate to undertakings) and section 100A (which relates to stating cases for the opinion of the High Court) are added to the list of provisions of that Act that are available to the Commerce Commission in carrying out its functions under subpart 5 of Part 2.

*Clause 27* inserts *new sections 147 to 150*. These sections provide for regular reports on the operation of subparts 5 and 5A.

*Clause 28* amends section 150A to make it clear that, for the purposes of subpart 5A (the base milk price), Fonterra's farm gate milk price may differ from the base milk price.

*Clause 29* amends section 150C, which relates to the setting of the base milk price. The amendments require Fonterra to estimate the return on capital by applying the capital asset pricing model. The amendments provide that the asset beta used in the application of the capital asset pricing model must be consistent with the estimated asset betas of other dairy and commodity processors. For the purposes of section 150C, the asset beta is a measurement of a firm's exposure to systematic risk where systematic risk measures the extent to which the returns on a company fluctuate relative to the equity returns in the stock market as a whole.

*Clause 30* amends section 150E to require Fonterra to appoint to the panel under that section 1 member who is nominated by the Minister, and to ensure that the appointment is made on the same terms and conditions that apply to other members of the panel.

*Clause 31* repeals section 156, which is a spent provision dealing with gift duty and tax matters related to the now-completed restructuring of LIC.

*Clause 32* inserts *new Schedule 1*, which provides for transitional, savings, and related matters.

## Part 2

### Consequential and other amendments

*Clauses 33 and 34* amend the principal Act, the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001, and the Dairy Industry Restructuring (Raw Milk) Regulations 2012 to give effect to the policy in this Bill.

Whilst the amendments are mostly of a consequential nature, there are substantive amendments to the Dairy Industry Restructuring (Raw Milk) Regulations 2012.

*Clause 35* revokes the Herd Testing Regulations 1958.

### Schedules

*Schedule 1* contains *new Schedule 1*.

*Schedule 2* sets out the amendments effected by *clauses 33 and 34*. The amendments to the Dairy Industry Restructuring (Raw Milk) Regulations 2012 include a change to the entitlement of independent processors to purchase up to 50 million litres of raw milk each season from Fonterra. Currently, regulation 6 provides that Fonterra is not required to supply raw milk to an independent processor (other than Goodman Fielder New Zealand Limited) in a season beginning on and after 1 June 2016 if the independent processor's own supply of raw milk in each of the 3 consecutive previous seasons was 30 million litres or more. The amendments will—

- continue the current provision until the end of the 2022–23 season (the close of 31 May 2023);
- provide that, on or after 1 June 2023, new co-op will no longer be required to sell raw milk to an independent processor if the processor's own supply of raw milk in any one previous season has been 30 million litres or more.



*Hon Damien O'Connor*

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Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Dairy Industry Restructuring Amendment Act **(No 3) 2019**.

**2 Commencement**

This Act comes into force on 1 June 2020.

5

**3 Principal Act**

This Act amends the Dairy Industry Restructuring Act 2001 (the **principal Act**).

**Part 1**

**Main amendments to principal Act**

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**4 Section 4 amended (Purpose)**

Replace section 4(e) with:

(e) provide for the regulation of matters relating to the core database, including its management; and

**5 Section 5 amended (Interpretation)**

15

(1) In section 5(1), insert in their appropriate alphabetical order:

**Access Panel** means the Access Panel established by regulations made under section 63

**constitution** means,—

- (a) in the case of a company within the meaning of section 2(1) of the Companies Act 1993, the constitution of the company; and 5
- (b) in the case of any other entity, the documents or instruments that form the constitution of the entity

**entity** means any of the following:

- (a) a company or other body corporate: 10
- (b) a corporation sole: 10
- (c) in the case of a trust that has—
  - (i) only 1 trustee, the trustee acting in their capacity as trustee:
  - (ii) more than 1 trustee, the trustees acting jointly in their capacity as trustees: 15
- (d) an unincorporated body (including a partnership) 15

**farm gate milk price** means the total cost of milk divided by kilograms of milk solids

**government agency** means an agency of the Crown, whether a department, a corporation, a Crown entity, a Crown Research Institute, or another organisation or instrument 20

**intended manager**, in relation to the core database, means an entity named as the intended manager of the core database by regulations made under **section 65B**

**kilograms of milk solids** means the number of kilograms of milk solids supplied to new co-op in a season by shareholding farmers 25

**manager of the core database** means—

- (a) DairyNZ Limited; or
- (b) an entity appointed by regulations made under **section 65A**, if regulations have been made under that section; or
- (c) the Crown, if the management of the core database has reverted to the Crown under **section 68** (and no entity has been appointed by regulations made under **section 65A**) 30

**organic milk** means raw milk certified as organic milk by a certifying entity or person prescribed by regulations made under section 115

**previous manager**, in relation to the core database, means an entity (or the Crown) replaced as manager of the core database by regulations made under **section 65A** 35

**raw milk—**

- (a) means untreated milk from a cow; and
- (b) includes organic milk; and
- (c) includes any other milk of a kind that is not excluded by **paragraph (d)** and is prescribed by regulations made under section 115; but 5
- (d) does not include—
  - (i) milk or a component of milk from a cow if the milk or component is produced under special conditions by, for example, the use of specialised herd selection, specialised farming practice, specialised feeding practice, or new technology; or 10
  - (ii) colostrum

**total cost of milk** means the total calculated by—

- (a) getting a sum by adding together all payments to which all the following apply:
  - (i) the payment is made by new co-op and any body that is an inter-connected body of new co-op; and 15
  - (ii) the payment is made to a shareholding farmer; and
  - (iii) the payment is for the raw milk that the farmer supplies to new co-op in a season; and
- (b) deducting from the sum— 20
  - (i) the total organic milk premium for the season; and
  - (ii) the total winter milk premium for the season

**total organic milk premium** means the total premium paid to shareholding farmers for the supply of organic milk to new co-op and any body that is an interconnected body of new co-op in a season 25

**total winter milk premium** means the total premium paid to shareholding farmers for the supply of winter milk to new co-op and any body that is an interconnected body of new co-op in a season

**winter milk** means raw milk supplied in June or July, and in any other period prescribed by regulations made under section 115 30

- (2) In section 5(1), replace the definition of **core database** with:

**core database** means the database that comprises—

- (a) information provided to the manager of the core database under—
  - (i) the Herd Testing Regulations 1958 or under the terms and conditions of any licence issued under those regulations; or 35
  - (ii) any regulations made under section 62; and

- (b) information provided to a previous manager under any of the things referred to in **paragraph (a)** while it was the manager of the core database; and
- (c) information provided to a previous manager or an intended manager under regulations made under **section 65C** 5
- (3) In section 5(1), repeal the definition of **panel** that relates to the panel established under regulations made under section 63.
- 6 New sections 5A and 5B inserted**
- After section 5, insert:
- 5A Status of examples** 10
- (1) An example used in this Act is only illustrative of the provisions to which it relates. It does not limit those provisions.
- (2) If an example and a provision to which it relates are inconsistent, the provision prevails.
- 5B Transitional, savings, and related provisions** 15
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.
- 7 Subpart 4 heading in Part 2 replaced**
- In Part 2, replace the subpart 4 heading with:
- Subpart 4—Management of core database 20
- 8 Section 43 amended (Overview)**
- Replace section 43(1) and (2) with:
- (1) **Section 43A** states that the constitution of the manager of the core database must be read as requiring the manager to retain the core database.
- (2) Sections 62 to **65D** contain regulation-making powers relating to— 25
- (a) herd testing:
- (b) the provision of information to the core database:
- (c) access to the core database:
- (d) disclosure of information by the manager of the core database:
- (e) the appointment of the manager of the core database and the naming of an intended manager: 30
- (f) the regulation of a previous manager or an intended manager of the core database.

- 9 Cross-heading after section 43 repealed**  
Repeal the cross-heading after section 43.
- 10 New section 43A inserted (Manager of core database must retain database)**  
After section 43, insert: 5
- 43A Manager of core database must retain database**
- (1) The constitution of the manager of the core database must be read as requiring the manager to retain the core database.
- (2) **Subsection (1)** does not apply if— 10
- (a) the Minister and the manager of the core database agree in writing that the subsection no longer applies; or
- (b) the manager of the core database is the Crown.
- 11 Section 61 and cross-heading above section 61 repealed**  
Repeal section 61 and the cross-heading above section 61.
- 12 Section 62 amended (Regulations relating to herd testing and provision of information to core database)** 15
- (1) In section 62(e), replace “LIC for entering into the core database” with “the manager of the core database for entering into the core database”.
- (2) In section 62(f), replace “LIC” with “the manager of the core database”.
- 13 Section 63 amended (Regulations relating to access to core database)** 20
- (1) In section 63(1)(a), (b)(ii), (c), (h), and (j) and (5), replace “LIC” with “the manager of the core database” in each place.
- (2) In section 63(1)(g), replace “LIC’s” with “the manager of the core database’s”.
- (3) In section 63(4), replace “LIC” with “The manager of the core database”.
- 14 Section 64 amended (General regulations relating to herd testing and core database)** 25
- (1) In section 64(a)(i), replace “LIC” with “the manager of the core database”.
- (2) In section 64(b), replace “LIC’s” with “the manager of the core database’s”.
- 15 Section 65 amended (Regulations requiring disclosure of information by LIC)** 30
- (1) In the heading to section 65, replace “LIC” with “**manager of core database**”.
- (2) In section 65(a), replace “LIC” with “the manager of the core database”.
- (3) In section 65(a)(i) and (ii), replace “LIC’s” with “the manager’s”.

**16 Section 65A replaced (Regulations relating to dairy industry entity other than LIC)**

Replace section 65A with:

**65A Regulations appointing manager of core database**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations appointing an entity to manage the core database. 5
- (2) The Minister may make the recommendation only if—
- (a) the core database reverts to the Crown under **section 68**; or
  - (b) the existing manager of the core database asks the Minister in writing to make the recommendation; or 10
  - (c) the existing manager has changed, or the Minister considers it likely that the existing manager will change, its constitution in a way that the Minister considers may compromise its suitability as manager of the core database; or 15
  - (d) the Minister considers that the existing manager has failed, or is at risk of failing, to—
    - (i) comply with this Act or any regulations made under sections 62 to 65; or
    - (ii) manage the core database in a way that the Minister considers satisfactory. 20
- (3) The Minister must,—
- (a) before making a recommendation under **subsection (2)(c)**, consult the existing manager;
  - (b) before making a recommendation under **subsection (2)(d)(ii)**, give the existing manager a reasonable opportunity to manage the database in a way that the Minister considers satisfactory. 25
- (4) An appointment under **subsection (1)** takes effect on a date specified in the regulations.
- (5) The appointment of an existing manager ends when an appointment under **subsection (1)** takes effect. 30
- (6) A failure to comply with **subsection (3)** does not affect the validity of regulations made under this section.

**65B Regulations naming intended manager of core database**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations naming an entity as the intended manager of the core database. 35



- (2) The Minister may make the recommendation only on the written request of the entity.
- 65C Regulations for previous manager or intended manager of core database**
- (1) This section applies if 1 or both of the following apply:
- (a) regulations are made under **section 65A** to appoint a new manager of the core database: 5
  - (b) regulations are made under **section 65B** naming an intended manager of the core database.
- (2) For the purposes of this section, the provisions referred to in **subsection (3)** apply as if the previous manager or intended manager were the manager of the core database. 10
- (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) the purposes described in—
    - (i) section 62(e) and (f): 15
    - (ii) section 63(1)(a), (c), (g), (h), and (j):
    - (iii) section 64(a):
    - (iv) section 65:
  - (b) providing for audits of compliance with regulations made under **paragraph (a)(i) to (iii)** and for matters related to the audit, including the auditor's powers: 20
  - (c) prescribing offences for the breach of, or non-compliance with, regulations made under **paragraph (a)(i) to (iii)**:
  - (d) prescribing penalties not exceeding \$20,000 for any of those offences:
  - (e) providing that a person is liable for damages for any loss or damage caused by that person's contravention of regulations made under **paragraph (a)(i) to (iii)**. 25
- (4) If regulations are made, or to be made, under this section for the purpose described in section 63(1)(j), section 63(2) to (7) applies—
- (a) to the previous manager or intended manager as if it were the manager of the core database; and 30
  - (b) to the regulations as if they were made, or to be made, under section 63.
- (5) If regulations are made under this section for a purpose described in section 65, sections 66 and 67 apply—
- (a) to the previous manager or intended manager as if it were the manager of the core database; and 35
  - (b) to the regulations as if they were made under section 65.

<b>65D</b>	<b>Duration of regulations for previous manager or intended manager of core database</b>	
(1)	Regulations made under <b>section 65C</b> are revoked on the close of the fifth anniversary of their commencement unless—	
(a)	the regulations are revoked earlier; or	5
(b)	the Governor-General by Order in Council confirms that the regulations will remain in force.	
(2)	If an Order in Council is made under <b>subsection (1)(b)</b> , the regulations remain in force until they are revoked.	
<b>17</b>	<b>Section 66 amended (Information to be supplied to chief executive)</b>	10
(1)	In section 66(1) and (3), replace “LIC or any other dairy industry entity nominated by the Crown to manage the core database” with “The manager of the core database”.	
(2)	In section 66(2), replace “LIC or any other dairy industry entity nominated by the Crown to manage the core database” with “the manager of the core database”.	15
(3)	In section 66(2), replace “LIC’s or that other dairy industry entity’s” with “the manager’s”.	
<b>18</b>	<b>Section 68 replaced (Database if LIC wound up)</b>	
	Replace section 68 with:	20
<b>68</b>	<b>When management of core database reverts to the Crown</b>	
	The management of the core database reverts to the Crown if—	
(a)	the Minister and the manager of the core database agree under <b>section 43A(2)(a)</b> that <b>section 43A(1)</b> no longer applies; or	
(b)	a liquidator or interim liquidator is appointed for the manager of the core database under Part 16 of the Companies Act 1993 or any other enactment; or	25
(c)	an administrator is appointed for the manager of the core database in respect of a voluntary administration under Part 15A of the Companies Act 1993; or	30
(d)	a receiver is appointed in respect of all or substantially all of the property of the manager of the core database; or	
(e)	a statutory manager is appointed for the manager of the core database under Part 3 of the Corporations (Investigation and Management) Act 1989 or any other enactment; or	35
(f)	the manager of the core database is removed from the register of companies kept under section 360(1)(a) of the Companies Act 1993; or	

(g)	the manager of the core database is liquidated, wound up, or dissolved or otherwise ceases to exist.	
<b>19</b>	<b>Section 69 repealed (Herd Testing Regulations 1958 deemed to have been made under this Act)</b> Repeal section 69.	5
<b>20</b>	<b>Section 73 amended (New co-op must accept application)</b> Replace section 73(3) with:	
(3)	New co-op must notify the applicant, within 15 working days of receipt of the application,—	
(a)	of its acceptance of the application; or	10
(b)	of its rejection of the application under section 94 or 95; or	
(c)	that it is considering whether to reject the application under <b>section 96A or 96H</b> .	
(3A)	Further provisions relating to the exceptions are in—	
(a)	section 94 (the first exception):	15
(b)	section 95 (the second exception):	
(c)	<b>sections 96A to 96G</b> (the third exception):	
(d)	<b>sections 96H to 96J</b> (the fourth exception).	
<b>21</b>	<b>Section 86 amended (Publishing capacity constraint notices)</b> In section 86(2)(d), replace “1 season” with “3 seasons”.	20
<b>22</b>	<b>New sections 96A to 96J and cross-headings inserted</b> After section 96, insert:	
	<i>Third exception</i>	
<b>96A</b>	<b>Supply from new dairy conversion: third exception</b>	
(1)	This section applies if an application by a new entrant or a shareholding farmer relates to the supply of milk from a new collection point.	25
(2)	New co-op may reject the application if—	
(a)	the application relates to the supply of milk from a new collection point; and	
(b)	more than 50% of the production land that is used to produce the milk for supply to the new collection point is new production land.	30
<b>96B</b>	<b>Definitions relating to third exception</b> In <b>sections 96A to 96G</b> ,—	

**collection point** means a place containing a milk vat, or milk vats, from which milk can be collected by new co-op or an independent processor

**new collection point**—

- (a) means a collection point that has not been used at any time in the preceding 5 years to supply milk from cows as part of a business; but
- (b) does not include—
  - (i) a collection point that will replace another collection point under **section 96C**; or
  - (ii) a collection point for milk produced on particular land if, in the preceding 5 years, milk has been produced from the land as part of a business and is, on a regular basis, processed by the applicant themselves or sold to consumers as unprocessed milk.

### Examples

#### *Examples of a new collection point*

A dairy farmer (**A**) adds an additional collection point to A's existing farm. This is a new collection point.

A dairy farmer (**A**) subdivides A's farm, retaining the part of the farm on which the only collection point is located. The purchaser of the other part (**B**) builds a new collection point for the other part. The collection point built by B is a new collection point.

A dairy farmer (**A**) switches A's farm from dairy production to beef and lamb, closes the old collection point, and sells the old milk vats to A's neighbour (**B**). B changes B's land use from forestry to dairy, and builds a collection point for B's farm. This is a new collection point because there is no connection between the closed collection point and the new collection point.

A dairy farmer (**A**) closes A's business of selling unprocessed milk directly to consumers. Two years later, A applies to supply milk to new co-op from the same location. This is a new collection point because milk has not been sold directly to consumers on a regular basis in the preceding 5 years.

#### *Examples of where there is no new collection point*

A dairy farmer (**A**) upgrades or relocates A's collection point on A's farm. This is not a new collection point.

Two dairy farmers (**A** and **B**) were using a shared collection point on A's farm. They close this point and build a collection point on B's farm. The collection point merely replaces an existing collection point and is therefore not a new collection point.

A dairy farmer (**A**) subdivides A's farm, retaining the part of the farm on which the only collection point is located. The purchaser of the other part (**B**) continues to use the collection point on A's farm. This is not a new collection point.

**new production land** means land that, in the preceding 5 years, has not been used at any time as part of the production land of a business

**preceding 5 years**, in relation to an application, means the 5-year period immediately preceding the date of receipt of the application

**production land** means the land that, in the ordinary course of business, is used for grazing or feeding lactating cows

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**Examples**

Land that is used to produce crops that are used as feed for a dairy herd is production land.

Land that is used only to graze non-lactating dairy cows is not part of the production land.

Land that is used only on a single occasion to graze lactating dairy cows is not part of the production land because it is not used for grazing or feeding lactating dairy cows in the ordinary course of business.

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**96C Replacement collection point**

- (1) This section applies for the purposes of **paragraph (b)(i)** of the definition of new collection point in **section 96B**.
- (2) A collection point (**A**) will replace another collection point (**B**) if, at the start of the dairy season to which the application relates,—
  - (a) A will be the collection point for milk produced on particular land; and
  - (b) B will be the immediately preceding collection point for milk produced from that land; and
  - (c) B will have ceased to operate.
- (3) **Subsection (2)** applies regardless of whether the entire volume of milk that was collected from B will be collected from A.
- (4) If 2 or more applications relate to collection points that will replace another collection point (**B**) under **subsection (2)**, only the collection point that relates to the first application received by new co-op is to be treated as replacing B.

**96D Application relating to 2 or more collection points**

- (1) If an application relates to 2 or more collection points, new co-op must—
  - (a) apply **section 96A** separately to each collection point as if separate applications had been made for each collection point; and
  - (b) separately accept or reject the application in respect of each of those collection points.

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**Example**

A shareholding farmer makes an application in respect of an existing collection point and a new collection point.

The application must be accepted to the extent to which it relates to the existing collection point (because the exception in **section 96A** only relates to new collection points).

	However, the production land for the new collection point is new production land. New co-op may reject the application to the extent to which it relates to this new collection point.	
(2)	<b>Sections 96A to 96C and 96E to 96G</b> apply, with all necessary modifications, for the purposes of <b>subsection (1)</b> .	5
<b>96E</b>	<b>Evidence to support position that section 96A does not apply</b>	
(1)	New co-op must treat the following as conclusive evidence that the exception in <b>section 96A</b> does not apply in respect of a collection point if the evidence relates to any time within the preceding 5 years:	
(a)	a contract or correspondence with, or documentation from, an independent processor that clearly indicates that the independent processor has accepted milk from the collection point (for example, a receipt for milk collection):	10
(b)	a farm dairy risk management programme applying to the collection point under the Animal Products Act 1999:	15
(c)	a farm dairy assessment report applying to the collection point that is prepared for the purposes of the Animal Products Act 1999:	
(d)	any other evidence of a prescribed kind.	
(2)	An applicant may provide any other evidence that may establish with reasonable certainty that the exception in <b>section 96A</b> does not apply.	20
<b>96F</b>	<b>Procedure if new co-op considers third exception applies</b>	
(1)	If new co-op is considering rejecting an application under <b>section 96A(2)</b> , the notice that new co-op must give the applicant under <b>section 73(3)</b> must state the reasons for new co-op's opinion.	
(2)	The applicant must, within 15 working days after receiving a notice under <b>section 73(3)</b> ,—	25
(a)	provide any further evidence to support the application; or	
(b)	notify new co-op in writing that the applicant agrees to provide further evidence; or	
(c)	notify new co-op in writing that the applicant refuses to provide further evidence.	30
(3)	If new co-op is notified under <b>subsection (2)(b)</b> , it must as soon as is reasonably practicable notify the applicant of a reasonable time within which to provide further evidence.	
(4)	New co-op must notify the applicant of the acceptance or rejection of the application within 15 working days after—	35
(a)	the applicant provides further evidence under <b>subsection (2)(a)</b> :	
(b)	the date on which new co-op is notified under <b>subsection (2)(c)</b> :	

- (c) the end of the 15-working-day-period referred to in **subsection (2)** (if the applicant does not comply with that subsection):
- (d) the end of the reasonable time set under **subsection (3)**.
- (5) The time frames in **subsections (2) to (4)** do not affect new co-op's obligation under section 73(1) or (2) to accept an application initially made in an application period. 5
- (6) A second or subsequent request for further evidence does not affect the time frame within which new co-op must act under **subsection (4)**.
- 96G Disclosure of evidence relied on to reject application under section 96A**
- If new co-op rejects the whole or a part of an application under **section 96A**, new co-op must provide written reasons for its decision, on demand, to— 10
- (a) the new entrant or shareholding farmer to which the application relates; and
- (b) the Commission.
- Fourth exception* 15
- 96H Inability to comply with new co-op's terms of supply: fourth exception**
- (1) This section applies if an application by a new entrant or a shareholding farmer is made in an application period.
- (2) New co-op may reject the application if new co-op considers that the applicant is not likely to comply with new co-op's terms of supply. 20
- 96I Procedure if new co-op considers fourth exception applies**
- (1) If new co-op is considering rejecting an application under **section 96H(2)**, the notice that new co-op must give the applicant under section **73(3)** must state—
- (a) that new co-op is considering rejecting the applicant's application because it considers that the applicant is not likely to comply with new co-op's terms of supply; and 25
- (b) the reasons for new co-op's opinion.
- (2) The applicant must, within 15 working days after receiving a notice under section **73(3)**,—
- (a) provide further information; or 30
- (b) notify new co-op in writing that the applicant agrees to provide further information; or
- (c) notify new co-op in writing that the applicant refuses to provide further information.
- (3) If new co-op is notified under **subsection (2)(b)**, it must as soon as is reasonably practicable notify the applicant of a reasonable time within which to provide further information. 35

- (4) New co-op must notify the applicant of the acceptance or rejection of the application within 15 working days after—
- (a) the applicant provides further information under **subsection (2)(a)**;
  - (b) the date on which new co-op is notified under **subsection (2)(c)**;
  - (c) the end of the 15-working-day period referred to in **subsection (2)** (if the applicant does not comply with that subsection): 5
  - (d) the end of the reasonable time set under **subsection (3)**.
- (5) The time frames in **subsections (2) to (4)** do not affect new co-op's obligation under section 73(1) or (2) to accept an application initially made in an application period. 10
- (6) A second or subsequent request for further information does not affect the time frame within which new co-op must act under **subsection (4)**.
- 96J Disclosure of information relied on to reject application under section 96H(2)**
- If new co-op rejects an application under **section 96H(2)**, new co-op must provide written reasons for its decision, on demand, to— 15
- (a) the applicant; and
  - (b) the Commission.
- 23 Section 106 amended (No discrimination between suppliers)**
- After section 106(4), insert: 20
- (5) In its terms of supply, but subject to subsections (1) to (4), new co-op may provide for differential pricing for milk based on any matters specified in the terms of supply, including, but not limited to, matters that relate to animal welfare, food safety, health and safety, employment conditions, the environment, climate change, and sustainability. 25
- 24 Section 115 amended (Regulations relating to milk)**
- (1) After section 115(1)(f)(i), insert:
- (ia) periodic returns of milk solids bought from, or sold to, other persons: 30
- (2) After section 115(1)(f), insert:
- (fa) prescribe kinds of evidence for the purposes of **section 96E(1)(d)**; and
  - (fb) prescribe entities and persons who may certify raw milk as organic milk; and
  - (fc) prescribe any matter that is authorised to be prescribed for the purposes of the definitions of raw milk and winter milk in section 5(1); and 35



**25 Section 134 replaced (Levy regulations)**

Replace section 134 with:

**134 New co-op must pay levy**

- (1) New co-op must pay, in each financial year, a levy to the Minister that is determined in accordance with regulations made under **subsection (2)**. 5
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
- (a) specifying the amount of the levy, or method of calculating or ascertaining the amount of the levy, on the basis that the costs estimated under **subsection (4)** should be met fully out of the levy: 10
- (b) including in the levy, or providing for the inclusion in the levy of, any shortfall in recovering those actual costs (including, without limitation, providing for a reconciliation of the levy against the levy that would have been payable had the calculation used the actual costs and invoicing new co-op for the amount under-recovered from it as part of the levy): 15
- (c) refunding, or providing for refunds of, any over-recovery of those actual costs:
- (d) specifying 1 or more financial years or part financial years to which the levy applies: 20
- (e) providing for the levy amount to be specified in the *Gazette* or some other publication (if the amount is not specified in the regulations):
- (f) providing for the payment and collection of the levy:
- (g) requiring payment of the levy for a financial year or part financial year, even though the regulations may be made after that financial year has commenced: 25
- (h) exempting or providing for exemptions from, and providing for waivers of, the whole or any part of the levy.
- (3) The regulations may provide for the levy to apply, and be calculated in respect of, 1 or more financial years (with the levy being collected in each of those years from new co-op). 30
- (4) In calculating estimated costs for the purposes of **subsection (2)(a)**, the Commission—
- (a) may include— 35
- (i) the cost of making determinations; and
- (ii) the cost of enforcing this subpart or subpart 5A; and
- (iii) the cost of enforcing determinations in the High Court; and
- (iv) over-recoveries or under-recoveries of actual costs; and

<ul style="list-style-type: none"> <li>(v) the cost of conducting reviews under subpart 5A; and</li> <li>(b) must exclude— <ul style="list-style-type: none"> <li>(i) the cost of taking other proceedings in the High Court, or defending proceedings against the Commission in the High Court; and</li> <li>(ii) the cost of investigations that are not related to complaints or determinations made under this subpart; and</li> <li>(iii) the cost of providing input for the reports under <b>section 147</b> on the operation of subparts 5 and 5A; and</li> </ul> </li> <li>(c) must calculate and deduct the total amount of application fees likely to be received.</li> </ul>	<p>5</p> <p>10</p>
<ul style="list-style-type: none"> <li>(5) The Minister must consult with new co-op and the Commission before making a recommendation under <b>subsection (2)</b>.</li> <li>(6) The amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.</li> </ul>	
<b>26 Section 145 amended (Application of Commerce Act 1986 provisions)</b>	15
<ul style="list-style-type: none"> <li>(1) After section 145(a), insert: <ul style="list-style-type: none"> <li>(aa) sections 74A to 74C (provisions relating to undertakings):</li> </ul> </li> <li>(2) After section 145(l), insert: <ul style="list-style-type: none"> <li>(la) section 100A (stating case for High Court):</li> </ul> </li> </ul>	
<b>27 New sections 147 to 150 and cross-heading inserted</b>	20
<p>After section 146, insert:</p> <p style="text-align: center;"><i>Regular reports on operation of subparts 5 and 5A</i></p>	
<b>147 Minister must require regular reports</b>	
<ul style="list-style-type: none"> <li>(1) The Minister must require regular reports from the chief executive on whether this subpart and subpart 5A should be retained, repealed, or amended.</li> <li>(2) The Minister must require the first report no earlier than 4 years after the commencement of the Dairy Industry Restructuring Amendment Act (<b>No 3</b>) 2019 and present the report to the House of Representatives no later than 6 years after commencement of that Act.</li> <li>(3) The Minister must require any subsequent report no earlier than 4 years after presentation of the previous report to the House of Representatives, and present the report to the House of Representatives no later than 6 years after presentation of the previous report to the House of Representatives, unless <b>subsection (4) or (5)</b> applies.</li> <li>(4) If a Bill is introduced into the House of Representatives to amend this Act in the 6 years before the Minister is required to present a report under <b>subsection (3)</b> and the Bill is passed, the Minister must instead—</li> </ul>	<p>25</p> <p>30</p> <p>35</p>

- (a) require a report no earlier than 4 years after the commencement of that enactment or (if different provisions come into force on different dates) the earliest date on which any provision of the enactment commences (the **commencement date**); and
- (b) present the report to the House no later than 6 years after the commencement date. 5
- (5) If the Bill is withdrawn, lapses with the dissolution or expiry of Parliament, or is defeated, the Minister must—
- (a) request the report no earlier than 4 years after the withdrawal, lapse, or defeat of the Bill; and 10
- (b) present the report to the House of Representatives no later than 6 years after the commencement date.
- 148 Commission input**
- (1) The Minister may, in consultation with the Minister responsible for the Commerce Act 1986, require the Commission to provide input for a regular report under **section 147**. 15
- (2) In providing any input to the report as required by the Minister, the Commission may exercise the powers specified in section 145.
- 149 Terms of reference for report to be published**
- (1) The terms of reference for a report under **section 147** may provide for any matter that relates to whether subparts 5 and 5A should be retained, repealed, or amended that the Minister considers appropriate. 20
- (2) The Minister must publish the terms of reference on the Ministry's Internet site.
- 150 Limits on effect of report and response** 25
- (1) The Crown is not bound by a report under **section 147**.
- (2) **Sections 147 to 149** are not intended to—
- (a) create any rights or protections in relation to any person or group of persons; or
- (b) confer any rights or protections on any person or group of persons. 30
- 28 Section 150A amended (Purpose of this subpart)**
- After section 150A(2), insert:
- (3) For the purposes of this subpart, new co-op may pay a farm gate milk price to shareholder farmers that differs from the base milk price.
- 29 Section 150C amended (Setting of base milk price in way that is consistent with certain principles)** 35
- After section 150C(2), insert:

- (3) For the purposes of subsection (1)(b), any estimate of the return on capital must be made applying the capital asset pricing model.
- (4) For the purposes of **subsection (3)**, the asset beta used in the application of the capital asset pricing model must be consistent with the estimated asset betas of other dairy and commodity processors. 5
- (5) In **subsection (4)**, **asset beta** means a measurement of a firm’s exposure to systematic risk where systematic risk measures the extent to which the returns on a company fluctuate relative to the equity returns in the stock market as a whole.
- 30 Section 150E amended (Appointment of members of panel)** 10
- (1) After section 150E(1), insert:
- (1A) New co-op must appoint 1 member of the panel who is nominated by the Minister, and the appointment must be on the same terms and conditions that apply to members appointed under subsection (1).
- (2) In section 150E(3), after “subsection”, insert “**(1A)** or”. 15
- 31 Section 156 repealed (Gift duty and taxation in respect of Livestock Improvement Corporation Limited)**
- Repeal section 156.
- 32 New Schedule 1 inserted**
- Insert the **Schedule 1** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act. 20

## Part 2

### Consequential and other amendments

- 33 Consequential amendments to principal Act**
- Amend the principal Act as set out in **Part 1 of Schedule 2**. 25
- 34 Amendments to regulations**
- (1) Amend the Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 as set out in **Part 2 of Schedule 2**.
- (2) Amend the Dairy Industry Restructuring (Raw Milk) Regulations 2012 as set out in **Part 3 of Schedule 2**. 30
- 35 Revocation of Herd Testing Regulations 1958**
- The Herd Testing Regulations 1958 (SR 1958/44) are revoked.

**Schedule 1**  
**New Schedule 1 inserted**

s 32

**Schedule 1**  
**Transitional, savings, and related provisions**

5

s 5B

**Part 1**  
**Provisions relating to Dairy Industry Restructuring Amendment Act**  
**(No 3) 2019**

*LIC*

10

**1 Employees of LIC from before restructuring under subpart 4 of Part 2**

- (1) This clause applies to a person to whom section 61 applied immediately before its repeal by the Dairy Industry Restructuring Amendment Act **(No 3) 2019**.
- (2) To avoid doubt, the repeal does not affect the person's status or rights, or terms or conditions of employment, under that section.

15

**2 LIC to be treated as previous manager of core database**

- (1) LIC must be treated as a previous manager of the core database for the purposes of this Act.
- (2) Information provided to LIC, whether before, on, or after the commencement of this clause, must be treated as information that comprises part of the core database if the information was or is provided under—
- (a) the Herd Testing Regulations 1958 or under the terms and conditions of any licence issued under those regulations; or
- (b) any regulations made under this Act.

20

- (3) Regulations applying to LIC may be made under **section 65C** as if LIC were replaced as manager of the core database by regulations made under **section 65A** (as inserted by the Dairy Industry Restructuring Amendment Act **(No 3) 2019**).

25

- (4) **Section 65D** does not apply to regulations made under **section 65C** that apply to LIC.

30

**3 Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 continue in force**

- (1) The Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (the **regulations**) continue in force.

(2)	To the extent that the regulations were made under sections 62 to 65A as in force immediately before the commencement of this clause, they must be treated as having been made under sections 62 to 65 as amended by the Dairy Industry Restructuring Amendment Act <b>(No 3) 2019</b> .	
(3)	However, to the extent that the regulations apply to LIC, they must be treated as having been made under <b>section 65C</b> as inserted by the Dairy Industry Restructuring Amendment Act <b>(No 3) 2019</b> .	5
(4)	<b>Section 65D</b> does not apply to the regulations referred to in <b>subclause (3)</b> .	
	<i>New dairy conversions</i>	
<b>4</b>	<b>New dairy conversion exception</b>	10
(1)	The new dairy conversion provisions apply in respect of application periods under section 75 that start after the commencement of those provisions.	
(2)	The <b>new dairy conversion provisions</b> are <b>sections 96A to 96G</b> .	
<b>5</b>	<b>New collection points</b>	
	A dairy conversion for which a building consent was granted before the date of commencement of <b>section 96A</b> must not be treated as a new collection point for the purposes of that section.	15
	<i>Levies</i>	
<b>6</b>	<b>Levy payable by new co-op</b>	
	Regulations made under <b>section 134</b> (as replaced by <b>section 25</b> of the Dairy Industry Restructuring Amendment Act <b>(No 3) 2019</b> ) apply to financial years that start on or after 1 July 2020 (and regulations may be made for that purpose under <b>section 134</b> (as replaced) at any time before that date).	20

## Schedule 2

### Consequential and other amendments

**ss 33, 34**

#### Part 1

#### Consequential amendments to principal Act 5

##### Section 47

Repeal section 47.

##### Section 63

In section 63(1)(b), replace “a panel” with “an Access Panel”.

In section 63(1)(c)(i), (d), (e), (g), (h), and (i) and (3), replace “panel” with “Access Panel” in each place. 10

In section 63(1)(f), replace “panel’s” with “Access Panel’s”.

##### Section 65

In section 65(a)(ii), replace “panel” with “Access Panel”.

##### Section 72 15

In section 72(3), replace “96” with “**96J**”.

After section 72(10), insert:

(11) **Sections 147 to 150** provide for reports on the operation of subparts 5 and 5A of Part 2.

##### Section 163 20

In section 163, replace “65” with “**65C**”.

#### Part 2

#### Consequential amendments to Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001

##### Regulation 3 25

In regulation 3(1), insert in its appropriate alphabetical order:

**Access Panel** means the New Zealand Dairy Core Database Access Panel established by regulation 13

In regulation 3(1), revoke the definition of **manager of the core database**.

In regulation 3(1), revoke the definition of **Panel**. 30

After regulation 3(2)(d), insert:

(e) manager of the core database.

**Regulation 11**

In regulation 11(b), replace “a Panel” with “an Access Panel”.

In regulation 11(c) and (d), replace “Panel” with “Access Panel”.

**Cross-heading above regulation 13**

Replace the cross-heading above regulation 13 with:

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*Access Panel*

**Regulation 13**

In the heading to regulation 13, replace “**Panel**” with “**Access Panel**”.

In regulation 13(1), replace “a Panel” with “an Access Panel”.

In regulation 13(2) and (3), replace “Panel” with “Access Panel”.

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**Regulation 14**

In the heading to regulation 14, replace “**Panel**” with “**Access Panel**”.

In regulation 14, replace “Panel” with “Access Panel”.

**Regulation 15**

In regulation 15, replace “Panel” with “Access Panel”.

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**Regulation 16**

In the heading to regulation 16, replace “**Panel**” with “**Access Panel**”.

In regulation 16, replace “Panel” with “Access Panel”.

**Regulation 17**

In regulation 17(a), replace “Panel” with “Access Panel”.

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**Regulation 18**

In regulation 18(1) and (2), replace “Panel” with “Access Panel” in each place.

**Regulation 19**

In the heading to regulation 19, replace “**Panel**” with “**Access Panel**”.

In regulation 19(1) and (3), replace “Panel” with “Access Panel”.

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**Regulation 20**

In the heading to regulation 20, replace “**Panel**” with “**Access Panel**”.

In regulation 20(1) and (2), replace “Panel” with “Access Panel”.

**Regulation 21**

In the heading to regulation 21, replace “**Panel**” with “**Access Panel**”.

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In regulation 21(1) and (2), replace “Panel” with “Access Panel”.



**Regulation 21**—*continued*

In regulation 21(2)(a) and (b), replace “Panel’s” with “Access Panel’s”.

**Regulation 23**

In the heading to regulation 23, replace “**Panel**” with “**Access Panel**”.

In regulation 23, replace “Panel” with “Access Panel”.

**Regulation 24**

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In regulation 24(1)(a), replace “Panel” with “Access Panel”.

**Regulation 25**

In regulation 25(1)(a), replace “Panel” with “Access Panel”.

**Regulation 26**

In regulation 26(1)(a), replace “Panel” with “Access Panel”.

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**Regulation 27**

In regulation 27(1), (2), (3), and (5), replace “Panel” with “Access Panel”.

**Regulation 32**

In regulation 32(2)(c), replace “Panel” with “Access Panel”.

**Schedule 1AA**

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In Schedule 1AA, replace clause 4 with:

**4 Transitional provision relating to decisions of Dairy Herd Improvement Tribunal**

(1) This clause applies to decisions of the Dairy Herd Improvement Tribunal that were in effect immediately before the commencement of **Part 2 of Schedule 2** of the Dairy Industry Restructuring Amendment Act (**No 3**) 2019.

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(2) The decisions remain in effect until this clause is revoked.

**Schedule 4**

In the Schedule 4 heading, replace “**Panel**” with “**Access Panel**”.

In Schedule 4, clauses 4, 7, and 14 to 17, replace “Panel” with “Access Panel” in each place.

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In Schedule 4, cross-heading above clause 6, replace “*Panel’s*” with “*Access Panel’s*”.

In Schedule 4, clauses 7, 15(1), 16(a), and 17(1)(a), replace “Panel’s” with “Access Panel’s”.

In Schedule 4, heading to clause 14, replace “**Panel**” with “**Access Panel**”.

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**Schedule 5**

In the Schedule 5 heading, replace “Panel” with “Access Panel”.

In Schedule 5, clauses 1 to 8, replace “Panel” with “Access Panel” in each place.

In Schedule 5, clause 8(a), replace “Panel’s” with “Access Panel’s”.

**Schedule 6**

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In Schedule 6, form, after “manager of the core database”, insert “(or LIC)” in each place.

**Part 3**

**Consequential and other amendments to Dairy Industry  
Restructuring (Raw Milk) Regulations 2012**

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**Regulation 3**

In regulation 3(1), replace the definition of **farm gate milk price** with:

**farm gate milk price** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **kilograms of milksolids** with:

**kilograms of milk solids**, except in Part 1A, has the meaning given in section 5(1) of the Act

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In regulation 3(1), replace the definition of **organic milk** with:

**organic milk** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **own supply** with:

**own supply**, in relation to an independent processor,—

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(a) means raw milk collected or purchased by or on behalf of the independent processor from dairy farmers or any other source (such as new co-op, a dairy processor, or an intermediary); but

(b) does not include milk supplied to an independent processor under section 108 of the Act or under regulation 4

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In regulation 3(1), replace the definition of **raw milk** with:

**raw milk** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total cost of milk** with:

**total cost of milk** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total organic milk premium** with:

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**total organic milk premium** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **total winter milk premium** with:

**total winter milk premium** has the meaning given in section 5(1) of the Act

In regulation 3(1), replace the definition of **winter milk** with:

**Regulation 3—continued**

**winter milk** has the meaning given in section 5(1) of the Act

**Regulation 6**

Replace regulation 6(3) with:

- (3) Despite subclauses (1) and (2), new co-op is not required to supply raw milk to an independent processor (other than Goodman Fielder New Zealand Limited) if,— 5
- (a) in any 3 consecutive seasons before 1 June 2023, the independent processor’s own supply of raw milk is 30 million litres or more in each of those seasons as specified in returns provided to new co-op under regulation 18(2); or 10
- (b) in any season beginning on or after 1 June 2023, the independent processor’s own supply of raw milk is 30 million litres or more as specified in the returns.

**Regulation 7**

In regulation 7(1)(a), replace “250” with “350”. 15

**Regulation 17**

Replace regulation 17 with:

- 17 Return by new co-op relating to actual supply of raw milk to independent processors**
- (1) New co-op must, no later than the first working day in July of the current season, provide a return to the chief executive stating the total quantity of raw milk it actually supplied— 20
- (a) to each independent processor in each month of the previous season; and
- (b) to all independent processors for the whole of the previous season.
- (2) For the purposes of **subclause (1)(a) and (b)**, new co-op must specify in the return the total quantity of raw milk supplied by new co-op under these regulations (including raw milk supplied at an agreed price under regulation 20(2)). 25

**Regulation 19**

In regulation 19(1), delete “(other than Goodman Fielder New Zealand Limited)”.

**Regulation 20**

In regulation 20(4), after “**default milk price**”, insert “, in relation to an independent processor other than Goodman Fielder New Zealand Limited,”. 30

After regulation 20(4), insert:

**Regulation 20**—*continued*

- (5) In subclause (3), **default milk price**, in relation to Goodman Fielder New Zealand Limited, means the default milk price as defined in subclause (4) plus 10 cents per kilogram of milk solids.

**Regulation 23B**

Revoke regulation 23B(2).

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**New cross-heading above clause 23A inserted**

Before clause 23A, insert:

*Returns of milk solids collected from dairy farmers*

**New clauses 23D to 23F and cross-headings inserted**

After clause 23C, insert:

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*Returns of raw milk bought or sold by independent processors*

**23D Independent processors must provide return**

- (1) Each independent processor must, in accordance with this Part, provide a return of raw milk bought from, or sold to, another independent processor in each season.
- (2) The return must be provided to the chief executive within 30 days after the end of the season.

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**23E Required information**

- (1) The return of an independent processor for a season must specify—
- (a) the total amount (in kilograms) of milk solids that the processor bought from, or sold to, another independent processor during the season; and
- (b) the part of that total amount (if any) that the processor bought or sold under the 20% rule.

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- (2) In this regulation,—

**20% rule** means the entitlement to supply to independent processors up to 20% of weekly production under section 108 of the Act

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**processor**—

- (a) means an independent processor that is required to provide a return; but
- (b) does not include an independent processor for a season if **regulation 23F** applies in respect of that season.

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**New clauses 23D to 23F and cross-headings inserted—continued**

<b>23F</b>	<b>Independent processor that collects less than 2,000 kilograms of milk solids</b>	
(1)	If the total amount of milk solids that an independent processor collects from dairy farmers and any other source is less than 2,000 kilograms during a season, the return for that season must indicate that fact.	5
(2)	<b>Regulation 23E</b> does not apply to that return.	
	<i>Certifiers for organic milk</i>	
<b>23G</b>	<b>Certifiers</b>	
	Raw milk may be certified as organic milk by—	
(a)	New Zealand Biological Producers & Consumers Society Incorporated:	10
(b)	the Bio Dynamic Farming & Gardening Association in New Zealand Incorporated:	
(c)	AsureQuality Limited.	