Australian Government

Department of Agriculture, Water and the Environment

Dairy Industry Code processor checklist

The mandatory Dairy Industry Code will commence on 1 January 2020. From this date all new milk supply agreements must comply with the code. Agreements already in place have 12 months to become code-compliant.

Processors and farmers may negotiate other terms and conditions to suit their individual interests as long as they are consistent with the code and relevant legislation, including the *Competition and Consumer Act 2010*. This document outlines what must be contained in milk supply agreements, whether they are standard forms or other negotiated agreements.

All agreements must be in plain English—or contain a plain English overview—and consist of a single document. This may comprise other documents such as supply handbooks.

What milk supply agreements must contain

All written agreements must include:

- milk supply agreements must specify a single minimum price that applies throughout the agreement, a schedule of yearly minimum prices or a schedule of monthly minimum price
- a cooling-off period of 14 days
- a clear start and end date for the milk supply period, unless the processor is a cooperative
- the quantity (if applicable) and quality requirements of milk, including sampling procedures and assurances about volume accuracy
- any circumstances under which the processor may reject milk supplied by the farmer
- how the processor will deal with milk that does not meet the quality and quantity requirements
- any requirements the processor has for delivery of milk from the farmer
- when the milk changes ownership from farmer to processor
- the circumstances for varying an agreement, noting that processors can only unilaterally vary the terms of an agreement to comply with a changed law
- the process a processor may use to unilaterally prospectively step-down the minimum price—if applicable and only in exceptional circumstances
- information on loyalty payments, where applicable
- the circumstances in which either party may unilaterally terminate the agreement
- a complaint-handling procedure and a mediation process, and may provide for arbitration
- an allowance for farmers to postpone the end of an agreement by 12 months if an agreement is longer than 3 years. This clause allows farmers who wish to exit the industry to resolve their business, sell assets and address any animal welfare and environmental concerns.

Standard forms of agreement

- Under the code, processors must publish one or more standard forms of agreements on their website by 2pm (Australian Eastern Standard Time) on 1 June each year.
- Processors must release at least one standard form of agreement and may release other agreements depending on factors affecting the purchase of milk. This may mean different standard form agreements based on geographic regions, characteristics of the milk (such as organic), or minimum volume levels.
- Processors need to offer non-exclusive supply agreements. However, they can also offer an exclusive agreement.
- Standard forms of agreement must include a justification of each minimum price specified in the agreement.

Other requirements

- Where parties agree to vary an agreement, the processor must provide a written record of the variation within 30 days.
- Where parties agree to terminate an agreement, the processor must provide a written record of the termination within 30 days.
- Agreements must provide that the farmer is entitled to a portion of the loyalty payment if the agreement is terminated before the end of its supply period.