

Policy OP 1: Licensing

1. Purpose

To describe the approach adopted by Dairy Food Safety Victoria (DFSV) in its statutory function to administer a licensing system under the *Dairy Act 2000* (the Act).

2. Scope

This policy relates to all businesses undertaking activities for which a licence is required under section 22 of the Act.

3. Policy

3.1. Licensing Requirements

3.1.1. Licensing Requirements for Dairy Businesses

A person must not commence or conduct business as a:

- Dairy farmer – the owner of a business that operates a dairy farm
- Dairy manufacturer – the owner of a business that operates a dairy manufacturing premises
- Dairy food carrier – the owner of a business engaged in the transport of dairy food in a bulk container
- Dairy distributor – the owner of a business that operates a dairy distribution premises; or who purchases dairy food for the purposes of distribution and sale

Unless DFSV has issued a licence authorising the person to carry on the business of DFSV grants an exemption. A person who commences or carries on any of these businesses without either a current and valid licence or an exemption is guilty of a criminal offence.

3.1.2. Licensing Requirements for Dairy Transport Vehicles

A person must not:

- Own a vehicle that is used or intended to be used to transport dairy food in bulk, or
- Use such a vehicle for transporting dairy food in bulk,

unless:

- The vehicle is covered by a current and valid dairy industry licence, or
- The vehicle is licensed under a corresponding law in another Australian state or territory.

A person who owns or uses a vehicle for transporting dairy in bulk without holding a licence to do so is guilty of a criminal offence.

3.1.3. Where two separate businesses or two different business activities are operated from the same premises, each business is required to hold a dairy industry licence.

3.2. Exemptions

Under S. 22A of the Act, the Authority may grant an exemption from the requirement to hold a dairy industry licence, provided the grounds described in that section have been met. These include:

- The person is a proprietor of a food business that operates at, on or from premises registered under the *Food Act 1984* and the registration is in force or licensed under the *Meat Industry Act 1993* or *Seafood Safety Act 2023*, and
- The applicable Act requires that the business has in place a quality assurance program (QA) or FSP adequately covers dairy food safety in relation to the dairy food dealt with in the business.

3.2.1. In considering the granting of an exemption DFSV will adopt a collaborative approach, upholding the principles of the Victorian food regulators' Memorandum of Understanding.

3.3. Administrative Processes

DFSV will maintain a licensing system that facilitates the process for applying for a licence, transferring ownership to another person or business, renewing and cancelling a licence.

3.4. New Licence Process

- 3.4.1. An application for a new dairy industry licence is required if a person intends on operating a dairy business, as defined under the Act.
- 3.4.2. The application must be submitted along with the payment of fees as per the current schedule and a food safety program where applicable. If any of these components are absent, the application may be refused, and the applicant may forfeit any application fee paid.
- 3.4.3. DFSV will undertake an assessment of the application to ensure that it meets the relevant criteria and is compliant with regulatory requirements applicable for the business type. This may also include an onsite visit to verify the information provided in the application.
- 3.4.4. Once DFSV is satisfied that all requirements have been met, a licence will be issued. This process may take up to 30 days for farm and carrier licences, 60 days for distributor licences and 90 days for manufacturing and integrated licences.

3.5. Renewal of Licences

The following describes the licence period for all licence types.

| Licence Category | Renewal Frequency | Renewal Date |
|--------------------|-------------------|--------------|
| Dairy farmer | 2 years | 1 July |
| Dairy food carrier | 1 year | 1 January |
| Dairy manufacturer | 1 year | 1 January |
| Dairy distributor | 1 year | 1 January |

3.6. Renewal of Manufacturer, Distributor and Carrier Licences

- 3.6.1. A licence renewal application form will be issued to each licensee and must be completed accurately and fully and returned to DFSV by the licence expiry date.
- 3.6.2. The annual licence will be calculated on the information returned on the renewal application form and an invoice issued to the licensee for payment by the licence expiry date.

Note: it is an offence to provide false or misleading information in or in connection with an application for a dairy industry licence, and DFSV may cancel the licence of any person convicted of doing so.
- 3.6.3. Once the invoice is paid, a new licence certificate will be issued for the period 1 January to 31 December.
- 3.6.4. DFSV may renew a dairy licence for a period not exceeding 6 months, to enable the licensee to comply with any requirements under subsection 26(2)(b) or any condition under subsection 2)c)(d) or 2(C) of the Act (S26(d)(b), or any condition of the Act (S26(2)(d) or (d)(e)). A new licence certificate will be issued to the licensee for a period of up to 6 months and the licensee will be advised in writing of their obligations to comply with the Act.
- 3.6.5. Where a licensee fails to complete a renewal application and/or pay the licence fee owing by the due date, the licence will expire. DFSV will advise the licensee in writing prior to expiry that their licence will expire if a renewal application is not made. A letter confirming the expiry of the licence will be sent to the licensee after 1 January.

3.7. Renewal of Farms

- 3.7.1. For Milk Volume Reporting (MVR) farms where a manufacturer pays fees on behalf of a farmer, the licence will be renewed automatically provided the farm has met its licence conditions. A new licence certificate will be issued for the period of 1 July-30 June.
- 3.7.2. A periodic review throughout the two-year licence period will be undertaken for MVR farms that have not supplied milk for six-months. DFSV will write to these licensees to state that we propose to cancel their licence because we do not think the licensee is carrying on business and will give them an opportunity to reply before making a decision to cancel. This process helps ensure that only active farms are licensed ahead of the renewal period.
- 3.7.3. Where a Non-MVR farmer fails to complete a renewal application and/or pay the licence fee owing by the due date, the licence will expire. DFSV will advise the licensee in writing prior to 30 June that their licence will expire should they not apply for its renewal. A letter confirming the expiry of the licence will be sent to the licensee after 1 July.

3.8. Transfer of dairy farm licences

- 3.8.1. Where ownership of a dairy farm business changes hands a licence transfer may be permitted.
- 3.8.2. For dairy farms, approval of the transfer will be made on the attestation of the manufacturer the farm supplies that an approved food safety program is in place, the dairy is in a satisfactory condition and the new owners are deemed competent to milk. For farms that do not supply another manufacturer, a food safety program will need to be submitted to DFSV for assessment.
- 3.8.3. An application to transfer the licence must be made by the current licensee and can be refused on the grounds set out in section 26(2).
- 3.8.4. Where the proposed farm licence holder has not been able to contact the current licence holder to obtain documented agreement to the transfer, an application for a new licence must be made.

3.9. Transfer of manufacturer, distributor and carrier licences

- 3.9.1. Where ownership of a manufacturer, distributor or carrier business changes hands a licence transfer may be permitted.
- 3.9.2. An application to transfer the licence must be made by the current licensee and can be refused on the grounds set in section 26(2) of the Act.

3.10. Cancellation of licences

Cancellations of dairy licences may occur voluntarily by an existing licence holder or by DFSV on any of the following grounds:

- The licensee has ceased to carry on business of the nature specified in the licence;
- The licensee does not, or the premises or the vehicle does not, meet or comply with any requirement of the Act, the regulations or a Code of Practice or of the Public Health and Wellbeing Act 2008 or the Food Act 1984 that is applicable;
- The licensee has been convicted of an offence in relation to the regulations or a Code of Practice or of the Public Health and Wellbeing Act 2008 or the Food Act 1984;
- The licensee has failed to comply with any condition specified in the licence;
- The Authority has withdrawn or suspended approval of a food safety program;
- The licensee has defaulted on any debt owed to the Authority;
- Any other ground which is prescribed for the purposes of this section

- 3.10.1. If a licensee wishes to voluntarily cancel their licence, they must advise DFSV, in writing, of their intention to cease operation, or advise that operation has ceased.
- 3.10.2. DFSV will commence cancellation of a licence on receipt of the notification in writing or on the date operation is to cease as advised.

3.10.3. Where DFSV becomes aware a licensee may have ceased operation, but failed to advise DFSV, DFSV will write to the licensee to state that we propose to cancel their licence because we do not think the licensee is carrying on business and will give them an opportunity to reply before making a decision to cancel.

3.10.4. When a dairy licence is cancelled at an export-registered site, DFSV will notify the Department of Agriculture Forestry and Fisheries in writing.

3.11. Licence Conditions

3.11.1. Currently, a number of licence conditions apply to all licence types. Under s. 26(3) of the Act DFSV may insert a new condition, amend, vary or delete any condition or other matter specified in a dairy industry licence. DFSV must advise the licensee in writing of any such insertion, amendment, variation or deletion.

3.12. Publication of licensee information

3.12.1. DFSV will publish a database of licensee information (except for farm licence information) on the DFSV website. The information published includes the dairy industry licence number, the name which the licence is held, the business trading name (where relevant) and the licence premises address. DFSV advises all licensees of the information that is to be made publicly available through the database and the purpose for which the information is publicised. The published database will comply with all legislation including privacy laws.

4. Responsible Officer

General Manager Operations

5. Related Documents

Procedure OP 01-1: Licensing Dairy Businesses