



# **Milk Supply Agreement Complaints Handling Procedure**

**Version: 1 June 2024**

## 1. Introduction

The Milk Supply Agreement (**MSA**) entered into by Lactalis Australia Pty Ltd (**Lactalis** or **we** or **us**) for the supply of milk to us by you provides that, if a party to the MSA has a complaint or there is a dispute in relation to a matter arising under or in connection with the MSA (**Complaint**), the Complaint may be dealt with or resolved:

- (a) in accordance with the complaint handling procedure provided for in the MSA; and/or
- (b) by mediation in accordance with Subdivision F of Division 2 of the *Competition and Consumer (Industry Codes – Dairy) Regulations 2019 (Dairy Code)*,

at the election of the party to the MSA raising the Complaint (**Complainant**). In addition, the parties may agree, in writing, to have a dispute resolved by arbitration conducted in accordance with Subdivision F of Division 2 of the Dairy Code.

This Milk Supply Agreement Complaints Handling Procedure (**Procedure**) details the complaints handling procedure provided for in the MSA. It outlines the complaints handling process which must be followed if the Complainant wants the Complaint to be dealt with in accordance with this Procedure. This Procedure also applies when a party to the MSA believes that the other party has failed to comply with the Dairy Code and makes a complaint to the other party about this.

If a Complainant instead wishes for the Complaint to be dealt with by mediation, the Complaint should be directed to the Australian Small Business and Family Enterprise Ombudsman (**Ombudsman**). The mediation will be conducted in accordance with Subdivision F of Division 2 of the Dairy Code.

## 2. Raising a complaint in accordance with the complaint handling procedure provided for in the MSA

Where you have a Complaint, you can formally raise the Complaint with the Complaints Handling Officer (**Lactalis Complaints Handling Officer**) in accordance with this Procedure. You are encouraged to first raise that Complaint with your usual Lactalis representative for an amicable resolution, before proceeding to formally raise the Complaint in accordance with this Procedure.

We may also raise a Complaint with you in accordance with this Procedure.

To raise a Complaint, the Complainant must fill out the Dairy Code Complaints Form (**Form**) (see **annexure A**). This Form notifies the other party to the MSA (**Respondent**) of the Complaint. The Form requires the Complainant to provide:

- (a) the Complainant's details including entity name and address (and, if you are the Complainant, Farm Number);
- (b) the contact name, phone number and email address for the Complainant's representative for the purpose of the resolution of the Complaint;
- (c) the nature of the Complaint and details of the conduct to be investigated, including the provision(s) of the MSA that the Complaint relates to;
- (d) if the Complaint relates to an alleged failure to comply with the Dairy Code, the relevant section(s) of the Dairy Code that the Complaint relates to (if known);

- (e) a statement that the Complainant wishes the Complaint to be dealt with in accordance with the complaint handling procedure provided for in the MSA, being this Procedure;
- (f) any supporting documentation;
- (g) the outcome sought;
- (h) confirmation of whether any of the information provided is confidential.

The Complainant must send the Form to the Respondent by email or post. If you are the Complainant, then the Form should be sent to us using either of the following details:

Email:

Legal@au.lactalis.com

Post:

The Lactalis Complaints Handling Officer  
Lactalis Australia  
Level 5/35 Boundary Street  
South Brisbane QLD 4101

The Lactalis Complaints Handling Officer is Lactalis' complaint handling officer for the purposes of the Dairy Code. The Lactalis Complaints Handling Officer is independent of and does not report to the Lactalis Milk Supply team.

The Complainant will not be charged a fee for making a Complaint.

The Complainant may, at any time, withdraw the Complaint by notice in writing to the Respondent.

### **3. Acknowledging the Complaint**

Within 5 working days after receiving the Form, the Respondent must give a written acknowledgement to the Complainant stating:

- (a) that notice of the Complaint has been received; and
- (b) the steps to be taken to deal with the Complaint.

### **4. Cooperative process for resolving the Complaint**

The Complainant and the Respondent must attempt to resolve the Complaint in accordance with this Procedure before taking action to resolve the Complaint by mediation or (with the agreement of the parties) arbitration.

This cooperative process must include a meeting between the Complainant and Respondent to attempt to resolve the Complaint, which must be held within 14 days after the Respondent's receipt of the Form. This meeting can occur in person, or by telephone or video conference, as agreed by the parties.

If, within 28 days of the Respondent's receipt of the Form, the Complaint remains unresolved, then either party may request that the Complaint be escalated.

If such a request is made, the Complaint must be escalated to a Senior Executive of the Respondent (or their nominee) to meet with the Complainant to attempt to resolve the Complaint.

## 5. Respondent's response to the Complaint

Unless the Complaint is resolved by agreement in accordance with section 4 at an earlier time, the Respondent will advise the Complainant in writing of its response to the Complaint and the reasons for that response, within 40 days after the Respondent's receipt of the Form (**Response**). If the Respondent proposes to take particular steps to resolve the Complaint, the Response will outline:

- (a) any actions that the Respondent proposes to take in order to resolve the Complaint;
- (b) the time frame to implement the proposed actions.

If the Response includes a proposal of this kind:

- (a) The Respondent must first consider the outcome sought by the Complainant, although the Respondent may decide to offer an alternative way to resolve the Complaint to the Complainant.
- (b) The Complainant must:
  - i. If it accepts the actions proposed by the Respondent in order to resolve the Complaint, notify the Respondent in writing of this within 7 days of the Complainant receiving the Response. After receiving that notice, the Respondent will implement the proposed actions within the proposed time frame (subject to any extension agreed to in writing by the Complainant) and the Complaint will then be resolved.
  - ii. If it does not accept the actions proposed by the Respondent in order to resolve the Complaint, notify the Respondent of this within 7 days of the Complainant receiving the Response. The notice must include the reasons the Complainant has not accepted the actions proposed by the Respondent. The Respondent will then provide written notice to the Complainant within 5 days of receipt of the Complainant's notice of its further response (**Further Response**), including any changes to its findings or (if applicable) the actions the Respondent proposes to take in order to resolve the Complaint and the timeframe for implementing those actions.

If the Complainant does not provide a written response to the Response within 7 days of receiving a Response that identifies actions the Respondent proposes to take to resolve the Complaint, then the Complainant will be taken to accept the proposal. The Respondent will then implement the proposed actions within the proposed time frame (subject to any extension agreed to in writing by the Complainant) and the Complaint will then be resolved.

If the Respondent believes the Complaint is vexatious, unsubstantiated, misconceived or not a breach of their obligations under the Dairy Code (if applicable), it will provide this finding in writing to the Complainant.

## 6. Confidentiality

The Complainant is required to identify in the Form any information which is confidential. Subject to this Section 6 and any disclosure of the information in accordance with law, the Respondent must observe any confidentiality requirements relating to the information disclosed or obtained in dealing with or resolving the Complaint.

If you are the Complainant, then you can request that the Lactalis Complaints Handling Officer keep your identity confidential from all or any particular member(s) of the Lactalis Milk Supply team during the investigation of the Complaint.

If the Lactalis Complaints Handling Officer determines, acting reasonably, that they need to provide your identity or other facts over which you have claimed confidentiality to another Lactalis employee (including a member of the Milk Supply team), in order to properly investigate the Complaint, the Lactalis Complaints Handling Officer will request consent from you and confirm the information that needs to be disclosed, and the name of the recipient that the information will be disclosed to.

If you consent to the request, the Lactalis employee will be briefed that the information is to remain confidential and be used only for the purposes of, and in accordance with, this Procedure.

If you do not consent to the request and the Lactalis Complaints Handling Officer reasonably forms the opinion that they are unable to properly investigate the Complaint as a result, the Complaint will be closed by us, with this reasoning communicated to you. This does not preclude you from choosing an alternative dispute resolution mechanism (see section 7 below).

Information about your identity and other facts may be disclosed to Lactalis' internal legal team and any external legal advisors retained by Lactalis in relation to the Complaint, at any time, without notice to you, on the condition that the information remains confidential and is used only for the purpose of, and in accordance with, this Procedure.

You are not required to disclose any confidential information you are privy to, to us or the Lactalis Complaints Handling Officer, in order to file a Complaint pursuant with this Procedure.

## **7. Alternative dispute resolution**

If the Complaint is not resolved within 60 days after the Respondent acknowledges receipt of the Form (see section 3 above), then you or we may direct the Complaint to the Ombudsman, or both parties may agree in writing for the Lactalis Complaints Handling Officer to direct the Complaint on to the Dairy Code Arbitration Advisor. All Complaints directed to the Ombudsman or Dairy Code Arbitration Advisor will be the subject of mediation or arbitration respectively conducted in accordance with Subdivision F of Division 2 of the Dairy Code.

The parties must complete mediation before commencing court proceedings in relation to a Complaint, except proceedings for urgent interlocutory or final relief. If the Complaint is not resolved by mediation, then either party may commence court proceedings.

## **8. Other**

This Procedure does not limit you from raising the Complaint with the Australian Competition and Consumer Commission (ACCC).

**ANNEXURE A:**



## Dairy Code Complaints Form

The Dairy Code Complaints Form (**Form**) is to be used by a party to a Milk Supply Agreement (**MSA**) who:

- Has a complaint, or wishes to raise a dispute, in relation to a matter arising under or in connection with the MSA or believes that the other party to the MSA has failed to comply with the *Competition and Consumer (Industry Codes – Dairy) Regulations 2019 (Dairy Code)*; and
- Wishes for the complaint or dispute to be dealt with in accordance with the complaint handling procedure provided for in the MSA, being the Lactalis Milk Supply Agreement Complaints Handling Procedure.

The Form is to be completed and sent to the other party to the MSA by email or post. If the party with the complaint is a farmer who supplies milk to Lactalis Australia Pty Ltd (**Lactalis**), this Form should be sent to Lactalis' Complaints Handling Officer by email to [Legal@au.lactalis.com](mailto:Legal@au.lactalis.com) or by post to The Lactalis Complaints Handling Officer, Lactalis Australia, Level 5/35 Boundary Street, South Brisbane QLD 4101.

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### General Information

Entity Name: .....

Entity Address: .....

Farm Number (if relevant): .....

Contact person: .....

Contact Email Address: .....

Contact Phone Number: .....

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### Nature of the Complaint

*(Please provide sufficient details to allow for investigation of the complaint)*

The complaint: .....

The provision(s) of the Milk Supply Agreement the complaint relates to:

.....  
If the complaint relates to an alleged failure to comply with the Dairy Code, the section(s) of the Dairy Code the complaint relates to (if known):

.....  
Desired Resolution: .....

.....  
Other information: .....

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**Confidential Information**

*(Tick whichever box is applicable)*

|  |                          |     |                          |    |
|--|--------------------------|-----|--------------------------|----|
| Do you require your entity details to remain confidential?                   | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| Are there any details in this Form that are required to remain confidential? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |

If yes, please provide details:

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**Method for addressing the Complaint**

Please tick to confirm that you want the complaint to be dealt with in accordance with the complaint handling procedure provided for in the MSA?

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If you have any supporting documentation, please attach it to this Form for submission.

Date the Form was completed: \_\_\_\_/\_\_\_\_/\_\_\_\_