

BREAD MANUFACTURE AND DELIVERY (AMENDMENT) ACT.

Act No. 40, 1953.

Elizabeth II, No. 40, 1953. An Act to provide for the licensing of bread manufacturers and the certification of operative bakers; to constitute a Bread Industry Advisory Committee and to define its powers, authorities, duties and functions; for these and other purposes to amend the Bread Manufacture and Delivery Act, 1950, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 16th December, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Bread Manufacture and Delivery (Amendment) Act, 1953".

(2) The Bread Manufacture and Delivery Act, 1950, as amended by this Act, may be cited as the Bread Manufacture and Delivery Act, 1950-1953.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of
Act No. 17,
1950.

2. The Bread Manufacture and Delivery Act, 1950, is amended—

Sec. 1.
(Short title,
construction,
and division
into Parts.)
(Con-
sequential.)

(a) by omitting from subsection three of section one the matter relating to Part II and by inserting in lieu thereof the following matter:—

PART II. — BREAD — DELIVERY, VARIETY,
STANDARDS, TRADE SUPPLIES, BREAD
MANUFACTURERS' LICENSES AND OPERA-
TIVE BAKERS' CERTIFICATES.

(b)

- (b) (i) by inserting in subsection one of section two next before the definition of "Bakehouse" the following new definition:—

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Sec. 2.
(Definitions.)

"Apprentice" means apprentice with-
in the meaning of the Industrial
Arbitration Act, 1940, as amended
by subsequent Acts.

- (ii) by inserting in the same subsection next
after the definition of "Bread manufac-
turer" the following new definitions:—

"Certificate" means a certificate or any
renewal thereof issued to an
operative baker pursuant to this
Act.

"Committee" means the Bread Indus-
try Advisory Committee constitu-
ted under this Act.

- (iii) by inserting in the same subsection next
after the definition of "Distribution centre"
the following new definitions:—

"License" means a license or any
renewal thereof issued to a bread
manufacturer pursuant to this Act.

"Member" means member of the Com-
mittee.

"Operative baker" means a person
engaged in the mixing, making,
moulding, weighing (except check
weighing from a divider) or bak-
ing, by hand or machine, of dough
for bread or bread rolls, or in the
taking of dough pieces for bread
or bread rolls to a prover or
moulder, or in the handing on or
stripping of any ovens in connec-
tion with the baking of bread or
bread rolls.

- (iv) by inserting in the same subsection next
after the definition of "Trade supplies" the
following new definition:—

"Trainee apprentice" means trainee
apprentice within the meaning of
the

Bread Manufacture and Delivery (Amendment) Act.

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the Industrial Arbitration Act,
1940, as amended by subsequent
Acts.

Part II.
Heading.

- (c) by omitting the heading to Part II and by inserting in lieu thereof the following heading and short heading:—

BREAD — DELIVERY, VARIETY, STANDARDS,
TRADE SUPPLIES, BREAD MANUFACTURERS'
LICENSES AND OPERATIVE BAKERS'
CERTIFICATES.

DIVISION 1.—*Delivery, Variety, Standards
and Trade Supplies.*

- (d) by inserting next after section nine the following short headings and new sections:—

DIVISION 2.—*Bread Manufacturers' Licenses
and Operative Bakers' Certificates.*

Bread manu-
facturers'
licenses.

9A. (1) No person shall, after the expiration of six months from the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, carry on in any premises the business of manufacturing, preparing or baking bread for trade or sale unless he is the holder of a license issued under this Division in relation to those premises.

(2) An application for a license or for the renewal of a license shall be made to the Under Secretary, shall be in or to the effect of the prescribed form, shall specify the premises which the applicant proposes to use or, as the case may be, uses as a bakehouse or bakehouses and shall be accompanied by the prescribed fee.

(3) A license shall, subject to this Division, remain in force for a period of one year from the date of the issue thereof and may be renewed from time to time for a like period.

(4)

(4) (a) The Under Secretary may—

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- (i) grant any application for a license or for the renewal of a license either unconditionally or subject to such terms and conditions as the Under Secretary may impose;
- (ii) during the currency of a license, impose terms and conditions, vary the existing terms and conditions of the license or impose terms and conditions additional to the existing terms and conditions of the license.

Any such term or condition may be made applicable to or in respect of all premises or to any one or more of the premises to which the application or, as the case may be, the license relates.

(b) The terms or conditions imposed or varied pursuant to the provisions of paragraph (a) of this subsection may, notwithstanding anything elsewhere contained in this Act and without limiting the generality of that paragraph, relate to all or any of the following matters, namely—

- (i) the times at which, the manner in which or the terms and conditions on which;
- or

- (ii) the persons by whom or the persons to whom,

bread manufactured, prepared or baked on any premises to which the application or, as the case may be, the license relates shall be delivered.

(c) No term or condition imposed or varied pursuant to the provisions of this subsection shall operate to require—

- (i) a bread manufacturer to sell and deliver or cause to be delivered bread to any person who upon tender of delivery fails to pay the lawful retail price for such bread upon demand;

(ii)

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(ii) a bread manufacturer to sell and deliver or cause to be delivered bread in any area at any time before the time fixed in respect of that area by an award (whether in force at the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, or made after such commencement) for the time being in force under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for the commencement of the ordinary hours of work by bread carters, or after the time so fixed for cessation of the ordinary hours of work by bread carters.

(5) Any person who applies therefor shall be entitled to be issued with a license if the Under Secretary is satisfied that—

- (a) the applicant is a fit and proper person to hold a license; and
- (b) the premises specified in the application and the equipment and facilities provided or to be provided in such premises are suitable for use in the manufacture, preparation or baking of bread.

(6) Notwithstanding anything contained in subsection five of this section, a person in whose name any premises being a bakehouse are, at the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, registered as a factory under the Factories and Shops Act, 1912-1950, shall be entitled to be issued with a license in respect of those premises if he makes application therefor within six months from such commencement.

(7) The Under Secretary may—

- (a) refuse the renewal of or cancel any license; or
- (b)

- (b) suspend any license for such period No. 40, 1953.
as he may determine,

in relation to all premises or any one or more of the premises to which the license relates, if he is satisfied that the person to whom the license was issued—

- (i) has contravened or failed to comply with any term or condition of the license;
- (ii) is not a fit and proper person to hold a license; or
- (iii) has, after the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, been convicted three times for offences (whether of the same or different kinds) against any Act relating to public health or sections four, five, six, eight or 9B of this Act.

Where a license has been suspended under this subsection, the person to whom the license was issued shall, during the period of suspension, be deemed not to be the holder of a license in relation to the premises in relation to which the license was suspended.

(8) Any person who contravenes or fails to comply with the provisions of this section or who contravenes or fails to comply with any term or condition of any license held by him shall be guilty of an offence against this Part of this Act.

(9) Nothing in this section affects the operation of the Factories and Shops Act, 1912, as amended by subsequent Acts.

9B. (1) No person shall, after the expiration of six months from the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, act as an operative baker in any bake-house unless he is the holder of a certificate issued under this Division.

Operative-
bakers'
certificates.

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(2) An application for a certificate or for the renewal of a certificate shall be made to the Under Secretary, shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(3) A certificate shall, subject to this Division, remain in force for a period of one year from the date of the issue thereof and may be renewed from time to time for a like period.

(4) The Under Secretary may—

- (a) grant any application for a certificate or for the renewal of a certificate either unconditionally or subject to such terms and conditions as the Under Secretary may impose;
- (b) during the currency of a certificate, impose terms and conditions, vary the existing terms and conditions of the certificate or impose terms and conditions additional to the existing terms and conditions of the certificate.

(5) The Under Secretary may cancel any certificate or suspend any certificate for such period as he may determine or refuse the renewal of any certificate if he is satisfied that the person to whom the certificate was issued—

- (a) has contravened or failed to comply with any term or condition of the certificate;
- (b) is not a fit and proper person to hold a certificate; or
- (c) has, after the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, been convicted three times for offences (whether of the same or different kinds) against any Act relating to public health.

Where a certificate has been suspended under this subsection, the person to whom the certificate was issued shall, during the period of suspension, be deemed not to be the holder of a certificate.

(6)

(6) (a) Any person who applies therefor shall be entitled to be issued with a certificate if the Under Secretary is satisfied that—

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- (i) such person is a fit and proper person to hold a certificate; and
- (ii) such person has completed the prescribed course of training and passed the prescribed examinations or possesses qualifications prescribed by regulation which entitle him to the issue of a certificate or is otherwise qualified for the issue of a certificate.

(b) Notwithstanding anything contained in paragraph (a) of this subsection, any person who, within six months from the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, applies therefor shall be entitled to be issued with a certificate if the Under Secretary is satisfied that such person was, at any time within two years immediately preceding the commencement of the Bread Manufacture and Delivery (Amendment) Act, 1953, bona fide acting as an operative baker in any bakehouse otherwise than as an apprentice, probationer for apprenticeship or trainee apprentice.

(7) This section does not apply to or in respect of an apprentice, probationer for apprenticeship or trainee apprentice acting as an operative baker under the direct personal control and supervision of the holder of a certificate.

(8) Subject to the provisions of subsection seven of this section, no bread manufacturer shall knowingly permit or suffer any person who is not the holder of a certificate to act as an operative baker in any bakehouse in respect of which the bread manufacturer holds a license.

(9) Any person who contravenes or fails to comply with the provisions of this section or who contravenes or fails to comply with any term
or

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or condition of any certificate held by him shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding fifty pounds.

**Appeal to
Industrial
Commission.**

9c. (1) Any applicant for or holder of a license or certificate who is dissatisfied with any decision of the Under Secretary—

- (a) refusing his application for a license either generally or in relation to any premises or, as the case may be, refusing his application for a certificate;
- (b) granting his application for a license, or, as the case may be, his application for a certificate, subject to any term or condition;
- (c) varying any term or condition of his license or certificate, as the case may be, or imposing any term or condition or any additional term or condition therein; or
- (d) cancelling, suspending or refusing the renewal of his license or certificate, as the case may be,

may require the Under Secretary to state in writing the grounds for the decision with which the applicant or holder, as the case may be, is dissatisfied, and the Under Secretary shall forthwith furnish to the applicant or holder, as the case may be, the statement referred to in this subsection.

(2) Any applicant for or holder of a license or certificate who is dissatisfied as aforesaid may appeal against the decision of the Under Secretary in the manner prescribed to the Industrial Commission of New South Wales.

The appeal shall be by way of rehearing.

The decision of the Industrial Commission of New South Wales on any such appeal shall be final,

final, and shall be deemed to be the decision of the Under Secretary and be carried into effect accordingly. No. 40, 1953.

DIVISION 3.—*General.*

9b. (1) (a) There shall be constituted a Bread Industry Advisory Committee which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Committee by or under this Part of this Act. Bread
Industry
Advisory
Committee.

(b) The Committee shall, subject to paragraph (d) of this subsection, consist of five members. One of such members who shall be the chairman of the Committee shall be the person for the time being holding the office of Under Secretary. The other members shall be appointed by the Minister.

(c) If the Under Secretary is unable to attend any meeting of the Committee he may appoint an officer of his Department to attend and act for him at such meeting and for all purposes such officer when so acting shall be deemed to be the chairman of the Committee.

(d) Upon being requested so to do by the Committee, the Minister may appoint additional members to the Committee for the purpose of considering any matter. The members so appointed shall, subject to this section, hold office for such period or periods as the Minister may from time to time determine. While the matter in respect of which they were appointed members is being considered by the Committee, the members so appointed shall be deemed to be members of the Committee.

(2) Subject to this section the members, other than the chairman and the members appointed under paragraph (d) of subsection one of this section, shall hold office for a term of
five

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five years and shall be eligible for re-appointment from time to time upon the expiration of their term of office.

(3) Members shall be entitled to receive such remuneration or fees for their services as may be fixed from time to time by the Governor.

Each member shall be entitled to receive travelling expenses at such rate as the Governor may from time to time determine.

(4) A member, other than the chairman, shall be deemed to have vacated his office if he—

- (a) dies;
- (b) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (c) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1952;
- (d) resigns his office by writing under his hand addressed to the Minister; or
- (e) is removed from office by the Minister.

(5) On the occurrence of a vacancy in the office of a member, the Minister may appoint a person to the vacant office. The person so appointed shall, subject to this section, hold office for the remainder of his predecessor's term of office.

(6) In the case of the illness or absence of a member other than the chairman, the Minister may appoint a deputy to act in the place of such member during his illness or absence.

Any deputy appointed under this subsection whilst acting as such deputy may exercise and discharge all the powers, authorities, duties and functions of the member in whose place he acts.

(7)

(7) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred and imposed on the Committee by or under this Division, the Committee may, with the approval of the Minister concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department. No. 40, 1953.

(8) A majority (one of whom shall be the chairman) of the members (including, where the Committee is considering any matter in respect of which additional members have been appointed, those additional members) of the Committee shall constitute a quorum for the purposes of any meeting of the Committee, and any duly convened meeting at which a quorum is present shall be capable of exercising and performing any of the powers, authorities, duties and functions conferred and imposed upon the Committee by or under this Part of this Act.

(9) At any meeting of the Committee at which a quorum is present the decision of the majority of the members present and voting at such meeting shall be the decision of the Committee.

If at any meeting of the Committee the voting on any matter is equal, the chairman shall have a second or casting vote.

(10) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

(11) The Committee shall cause minutes of its proceedings and decisions at formal meetings to be kept.

(12)

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(12) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to this section and to any regulations made under this Part of this Act in relation thereto, be as determined by the Committee.

Functions
of
Committee.

9E. (1) The Committee shall have power to—

- (a) investigate and make recommendations to the Minister in respect of special measures necessary to improve methods of bread making and distribution and sanitary conditions in bakehouses;
- (b) recommend to the Minister standards of efficiency necessary for persons engaged in the manufacture of bread;
- (c) consider and recommend to the Minister any amendment of existing legislation and proposals for future legislation which in its opinion are necessary and desirable in respect of any matters relating to the industry of bread manufacturing.

(2) The Committee shall, when so directed by the Minister, investigate and furnish to the Minister a report and recommendation with respect to any matter relevant to the industry of bread manufacturing which may be referred to the Committee by the Minister.

Sec. 10.
(Inspection.)

- (e) (i) by inserting in paragraph (b) of subsection one of section ten after the word “production” the words “of any license or certificate or”;
- (ii) by inserting in paragraph (c) of subsection two of the same section after the words “produce any” the words “license, certificate”;

Sec. 12.
(Refusal or
cancellation of
registration of
bakehouses.)

- (f) by omitting section twelve;

(g)

(§) by inserting at the end of section thirteen the following new subsection:—

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Sec. 13.

(Pro-
ceedings.)

(5) In any proceedings for an offence against this Part of this Act or the regulations thereunder a statement purporting to be signed by the Under Secretary—

(a) that any person was on any date or during any period mentioned in the statement the holder of a license in respect of any premises specified in the statement or the holder of a certificate and as to the terms and conditions, if any, of the license or certificate;

(b) that any person was not on any date or during any period mentioned in the statement the holder of a license in respect of any premises specified in the statement or the holder of a certificate;
or

(c) that on any date or during any period mentioned in the statement the license or certificate of any person was suspended,

shall be evidence of the matters contained in such statement without proof of the signature or of the official character of the person appearing to have signed the same.

(h) by inserting at the end of subsection one of section fourteen the following new paragraphs:—

Sec. 14.

(Regu-
lations.)

(d) prescribing the forms of applications for licenses and certificates and for renewals of licenses and certificates and the forms of licenses and certificates;

(e) requiring holders of licenses to keep records and registers as prescribed;

(f) requiring licenses and other prescribed documents to be exhibited and regulating the manner of exhibition;

(g)

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- (g) prescribing the fees to be paid on applications for licenses and certificates;
- (h) prescribing the course of training to be completed and the examinations to be passed by applicants for certificates and the qualifications the possession of which shall entitle a person to the issue of a certificate;
- (i) relating to the holding and conduct of examinations for certificates;
- (j) providing for the establishment of a Bakers Examination Board;
- (k) relating to the powers, authorities, duties and functions of the Bakers Examination Board;
- (l) prescribing the fees to be paid for examinations for certificates for operative bakers;
- (m) relating to any matter the subject of a recommendation made by the Committee under paragraphs (a) and (b) of subsection one of section 9E of this Act in so far as such regulations are necessary to give effect to such recommendation and provision with respect to that matter is not made under any other Act or regulations made thereunder.

JUDGES'