

## **MILK (AMENDMENT) ACT.**

**New South Wales**



**ANNO OCTAVO DECIMO**

**ELIZABETHÆ II REGINÆ**

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**Act No. 40, 1969.**

An Act relating to the interpretation of the Milk Act, 1931, as subsequently amended, and the powers, authorities, duties and functions of the Milk Board constituted thereunder; to amend that Act, as so amended; and for purposes connected therewith.  
[Assented to, 17th April, 1969.]

**B**E 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:—

**1.** (1) This Act may be cited as the "Milk (Amendment) Act, 1969".

**(2)**

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(2) The Milk Act, 1931, as subsequently amended, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Milk Act, 1931–1969.

Amendment  
of Act No.  
59, 1931.

Sec. 4.

**2.** (1) The Principal Act is amended—

(a) (i) by omitting from the definition of “Milk” in section four the words “cream, and refers only to milk or cream” and by inserting in lieu thereof the words “the liquid form of a substance or a class of milk described in the Third Part of the Schedule to this Act”;

(ii) by inserting in the definition of “Treatment” in the same section after the word “modification,” the words “homogenisation, separation, sterilisation, alteration or manufacture into another form, packaging.”;

(iii) by inserting at the end of the same section the following new subsection :—

(2) For the purposes of this Act, a reference to milk supplied for consumption or use includes a reference to milk supplied for treatment before it, or milk that is a product of its treatment, is supplied for consumption or use.

Sec. 26.  
(All milk  
supplied  
for con-  
sumption  
or use in  
any milk  
distributing  
district to  
vest in the  
Board.)

(b) (i) by omitting from subsection three of section twenty-six the words “From and after the day so appointed such milk shall become the absolute property of the Board” and by inserting in lieu thereof the words “Milk vested in the Board by the operation of subsection one or two of this section shall be so vested”;

(ii)

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- (ii) by omitting from the same subsection the word No. 40, 1969 "thereupon" and by inserting in lieu thereof the words ", to the extent that it is accepted by the Board at a place where the Board accepts milk,";
- (iii) by omitting from the same subsection the word "therefor" and by inserting in lieu thereof the words "for the quantity of milk so accepted";
- (c) by omitting from subsection (2A) of section twenty- Sec. 28. eight the words "by such" and by inserting in lieu (Delivery thereof the words "to the Board by, and accepted <sup>of milk.</sup> by the Board from, that";
- (d) by inserting next after the same section the follow- New sec. 28A. ing new section :—

28A. (1) For the purposes of this Act, and of Determination of any regulation or proclamation made, or notice issued, thereunder, delivery of milk at a place where the Board will accept milk shall not, except to the extent provided by this section, constitute delivery accepted by to, or acceptance by, the Board of that milk.

(2) Where, during any period, a person delivers, or from time to time delivers, milk at a place where the Board will accept milk—

- (a) the quantity of milk, or the quantity of milk of any grade, class or description, that is delivered to the Board by that person during that period at that place, and the quantity of milk, or the quantity of milk of any grade, class or description, that is accepted by the Board from that person during that period at that place shall be deemed to have been such quantity as may, in respect of that person, period, place and, if the case so requires, grade, class or description, be at any time thereafter determined by the Board or an officer of the Board authorised by it for the purpose; and

(b)

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(b) upon such a determination being made, that person shall, unless the Board otherwise directs, be deemed to have been authorised to deal (otherwise than by supplying for consumption in a milk distributing district or sub-district thereof specified in a proclamation under section twenty-six of this Act) with such quantity of milk delivered by him during that period at that place as was in excess of the quantity determined by the Board to have been delivered to it by, or accepted by it from, that person during that period at that place.

(3) In any legal proceedings by or against the Board, a certificate by the Board to the effect that—

- (a) no milk;
- (b) no milk of a specified grade, class or description;
- (c) a quantity of milk; or
- (d) a quantity of milk of a specified grade, class or description,

was, during a specified period, delivered to the Board by, and accepted by the Board from, a specified person at a specified place shall be conclusive evidence of the matters specified therein and the fact that the place so specified was a place at which the Board would, during that period, accept milk.

**Sec. 35.**  
(Protection of  
Crown and  
its officers.)

(e) by inserting in section thirty-five after the word "Act" wherever occurring the words "or any amendment thereof";

(f)

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(f) by inserting next after the Second Part of the No. 40, 1969 Schedule the following new Part :—  
Schedule.

**THIRD PART—DEFINITION OF MILK.**

Cream.

Milk for separation into cream.

Milk or cream that has been pasteurised or sterilised, whether or not pasteurisation or sterilisation is complete.

Milk that has been homogenised.

(2) The amendments made by subsection one of this section shall be deemed to have taken effect as on and from the first day of January, one thousand nine hundred and thirty-two and, subject to section four of this Act, the provisions of the Principal Act, as amended by that subsection, shall be deemed always to have applied to and in respect of any act or thing done, suffered or commenced, or omitted to be done or suffered, before the enactment of this Act and to have so applied in the manner and to the extent that they would apply if the act or thing were done, suffered or commenced, or omitted to be done or suffered, after the enactment of this Act.

**3. The Principal Act is further amended—**

Further  
amendment  
of Act No.  
59, 1931.

(a) by inserting next after section twenty-two the following new section :—

New sec.  
22A.

22A. (1) The Board may, by instrument in writing under seal, delegate to a member or officer of the Board the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Board by or under this Act as may be specified in the instrument of delegation.

(2)

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(2) A power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the member or officer to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Where the exercise or performance of a power, authority, duty or function is dependent upon the opinion belief or state of mind of the Board and that power, authority, duty or function has been delegated under this section, the power, authority, duty or function so delegated may be exercised or performed under the delegation upon the opinion belief or state of mind, as the case may be, of the delegate.

(5) Notwithstanding any delegation made under this section, the Board may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Board.

(7) A certificate or other instrument purporting to be signed by a delegate of the Board in his capacity as such a delegate shall in all courts

be

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be received in evidence as if it were a certificate or No. 40, 1969 other instrument executed by the Board under seal and, until the contrary is proved, shall be deemed to be a certificate or other instrument signed by a delegate of the Board.

(b) by omitting from paragraph (a) of section twenty-five the words "the grade or grades of" and by inserting in lieu thereof the words "by reference to Board.)  
grade, class or description";

(c) (i) by omitting subsection one of section twenty-seven and by inserting in lieu thereof the following subsections :—  
(Delivery and acceptance of milk.)

(1) Milk produced by a dairyman and supplied for consumption or use within a milk distributing district or sub-district thereof to which a proclamation under section twenty-six of this Act relates may, subject to the provisions of this section and section 28A of this Act, be delivered to the Board, but shall not, except to the extent provided by paragraph (b) of subsection two of section 28A of this Act, be delivered to any other person.

(1A) Nothing in this Act shall be construed as requiring the Board, or as having ever required the Board, to accept all or any milk delivered at a place where it will accept milk.

(ii) by omitting from subsection three of the same section the words "On and from the date of the publication of any proclamation under section twenty-six of this Act any" and by inserting in lieu thereof the word "A";

(iii) by omitting from the same subsection the words "that section" and by inserting in lieu thereof the words "section twenty-six, and paragraph (b) of subsection two of section 28A, of this Act";

(iv)

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(iv) by omitting from the same subsection the words "the proclamation" and by inserting in lieu thereof the words "a proclamation under section twenty-six of this Act";

**Sec. 28.**  
(Delivery  
of milk.)

(d) (i) by omitting from subsection one of section twenty-eight the words "to the Board" and by inserting in lieu thereof the words "at a place where the Board will accept milk";

(ii) by omitting from subsection (1A) of the same section the words "to the Board" where firstly occurring and by inserting in lieu thereof the words "at a place where the Board will accept milk";

(iii) by inserting in the same subsection after the word "delivered," the words "whether or not the milk is accepted wholly or in part by the Board,";

(iv) by inserting next after the same subsection the following new subsection :—

(1B) All milk produced by a person authorised to carry on business as a dairyman by a certificate of registration issued by the Board, being milk in his possession or in the possession of some person on his behalf, shall, for the purposes of the Pure Food Act, 1908, as subsequently amended, be deemed to be in the possession of that dairyman for sale thereof within the meaning of that Act, as so amended, and that Act, as so amended, and the regulations made thereunder shall apply accordingly.

**Sec. 36.**  
(Registration  
of  
dairymen  
and milk  
vendors.)

(e) (i) by inserting next after subsection one of section thirty-six the following new subsection :—

(1A) A person authorised to carry on business as a dairyman or milk vendor by a certificate of registration issued by the Board shall

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shall not so carry on business to an extent, No. 40, 1969 or in a manner, inconsistent with the provisions of the certificate.

(ii) by inserting next after subsection six of the same section the following new subsection :—

(6A) A certificate issued to a dairyman or milk vendor may be qualified in a manner, or contain conditions which, in the opinion of the Board, are necessary to enable it effectively to exercise or perform the powers, authorities, duties and functions conferred or imposed upon it by this Act.

(f) (i) by omitting from paragraph (b) of subsection Sec. 37. one of section thirty-seven the words “fit and proper person” and by inserting in lieu thereof the words “person fit and proper”; (Refusal or cancellation of registration.)

(ii) by omitting from subsection two of the same section the words “if such refusal, cancellation, or alteration is necessary to the effective exercise of the powers conferred” and by inserting in lieu thereof the words “if, in the opinion of the Board, such refusal, cancellation, or alteration is necessary to enable it effectively to exercise or perform the powers, authorities, duties or functions conferred or imposed”;

(iii) by omitting from paragraph (b) of subsection three of the same section the words “such grounds” and by inserting in lieu thereof the words “the grounds specified in paragraphs (a) and (b) of subsection one of this section”;

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Sec. 39.  
(Functions  
of the  
Board.)Sec. 41.  
(Offences.)

(iv) by inserting next after paragraph (c) of the same subsection the following new paragraph :—

(d) The magistrate hearing an appeal under this subsection shall not, for the purposes of that hearing, be bound by the rules of evidence and may inform himself on the matter of the appeal in such manner as he thinks fit.

(g) by omitting from paragraph (g) of section thirty-nine the word "raw";

(h) (i) by omitting from paragraph (d) of section forty-one the words "paragraph (a) of section twenty-five, sells or distributes or supplies for sale milk of a grade other than that which" and by inserting in lieu thereof the words "this Act, sells or distributes or supplies for sale milk which is not of a grade, class or description that";

(ii) by inserting in paragraph (e) of the same section after the word "Board" the words "or, being a milk vendor, purchases milk for re-sale from a person who is not the holder of a certificate of registration issued by the Board authorising him to carry on business as a milk vendor";

(iii) by inserting next after the same paragraph the following new paragraph :—

(e1) being the holder of a certificate of registration issued by the Board, without the consent of the Board or without reasonable cause does, or causes to be done, or omits to be done, any act whereby he is in breach of any condition contained in such certificate of registration; or

(i)

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(i) by inserting in paragraph (a) of subsection one of No. 40, 1969 section seventy-six after the word "classes" the Sec. 76.  
words "or descriptions".  
(By-laws.)

4. No person shall, by reason of the enactment of sub- Certain  
section two of section two of this Act, be guilty of an offence <sup>acts or</sup> <sub>omissions</sub>  
against the Principal Act, as amended by subsection one of <sup>not to</sup> <sub>constitute</sub>  
that section, by reason of anything done or omitted to be done <sup>an offence.</sup>  
by him that would not have been such an offence had sub-  
section two of that section not been enacted.

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