

**BREAD (RETURNS) ACT, 1977**

**New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 21, 1977.**

An Act to prohibit the return of bread supplied to a bread retailer except in certain circumstances. [Assented to, 31st March, 1977.]

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*Bread (Returns).*

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**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:—

**Short title.**      **1.** This Act may be cited as the "Bread (Returns) Act, 1977".

**Commence-  
ment.**            **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Interpre-  
tation.**           **3.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

    "bread distributor" means a person who supplies bread intended for human consumption but does not, in relation to any bread so supplied, include a person who so supplies that bread as a bread retailer;

    "bread retailer" means a person who sells—

        (a) bread; or

        (b) a foodstuff made with bread,

by retail;

    "compensate"

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“compensate” includes give any benefit or advantage whether monetary or not;

“court” means a court of petty sessions constituted by a stipendiary magistrate;

“inspector” means—

- (a) an inspector appointed under section 55 of the Consumer Protection Act, 1969;
- (b) an authorised officer within the meaning of the Prices Regulation Act, 1948; and
- (c) an inspector within the meaning of the Weights and Measures Act, 1915;

“regulations” means regulations made under this Act;

“sell” includes—

- (a) exchange;
- (b) offer or expose for sale or exchange;
- (c) attempt to sell, exchange, offer for sale or expose for sale;
- (d) agree to sell or exchange; and
- (e) have in possession for sale or exchange;

“supply”, in relation to bread, includes delivery of the bread, whether or not the property in the bread passes at the time it is delivered.

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(2) For the purposes of this Act, a corporation that is related (within the meaning of the Companies Act, 1961) to another corporation shall be deemed to be an agent of that other corporation.

(3) In this Act a reference to a bread distributor includes a reference to—

- (a) an agent of a bread distributor; and
- (b) a person acting on behalf of a bread distributor or his agent.

Return of  
bread pro-  
hibited.

4. A bread retailer, his agent or another person acting on behalf of either of those persons shall not—

- (a) supply bread to; or
  - (b) receive any compensation in respect of bread from,
- a bread distributor.

Penalty : \$250 or, if a corporation, \$500.

Possession  
of returned  
bread.

5. A bread distributor shall not have in his possession any bread that has been previously supplied to a bread retailer.

Penalty : \$250 or, if a corporation, \$500.

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6. A bread distributor shall not, directly or indirectly, compensate a bread retailer, his agent or another person acting on behalf of either of those persons, in respect of bread. Compensation not payable.

Penalty : \$250 or, if a corporation, \$500.

7. A person is not guilty of an offence under section 4, Defences. 5 or 6 if he satisfies the court that—

- (a) the offence alleged arose out of a supply of bread for human consumption by way of retail sale;
- (b) the bread in respect of which the offence is alleged to have been committed was initially supplied to a bread retailer who would have been entitled to refuse to be supplied with the bread because it was not, at the time at which it was so supplied, of reasonable quality; or
- (c) he was exempted by the regulations from compliance with the provision of section 4, 5 or 6 that he is alleged to have contravened.

8. Every contract, agreement or arrangement made or entered into orally or in writing whether on, before or after the date of assent to this Act, in so far as it has or purports to have the purpose or effect of in any way directly or indirectly defeating, evading, avoiding or preventing the operation of this Act or the regulations shall be absolutely void. Certain contracts, etc., void.

9. (1) An inspector may at any time—

- (a) subject to subsection (2), enter and examine any place or examine any fixture or fitting in or on which he suspects on reasonable grounds that bread that has been supplied to a bread retailer may be found;

Powers of inspectors.

(b)

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- (b) require the production of any books, documents and papers referring to the manufacture, distribution, sale or supply of bread and examine, make copies of or take extracts from them; and
- (c) require any person in charge of a vehicle, vessel or other thing which he suspects on reasonable grounds is being used in the supply of bread to stop that vehicle, vessel or other thing and search that vehicle, vessel or other thing.

(2) An inspector shall not enter a dwelling-house pursuant to the powers granted him under subsection (1) (a).

(3) A person shall not—

- (a) refuse or fail to admit an inspector in the exercise of his powers under subsection (1) (a);
- (b) wilfully obstruct or delay an inspector in the exercise of his powers under subsection (1); or
- (c) refuse or fail to comply with a reasonable requirement of an inspector under subsection (1) (b).

Penalty for an offence under this subsection : \$500.

Questions  
by  
inspectors.

**10.** (1) An inspector may require persons who the inspector suspects on reasonable grounds are engaged in the supply of bread to answer questions relating to the observance of this Act or the regulations.

(2) Subject to subsection (3), a person shall not, when required to answer a question under subsection (1)—

- (a) refuse or fail to answer the question; or

(b)

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- (b) make any answer which is false or misleading in a material particular.

Penalty : \$500.

(3) A person is not obliged to answer any question asked of him under subsection (1) unless he has first been informed by the inspector asking the question that he is required and is obliged to answer the question by virtue of this section.

(4) A person may not refuse to answer a question asked of him under subsection (1) on the ground that his so doing might tend to incriminate him or make him liable to any penalty.

(5) Any answer given by a person pursuant to a requirement made under subsection (1) after he has been informed in the manner set forth in subsection (3) shall not be admissible in evidence in any proceedings, civil or criminal, against him other than in proceedings under subsection (2).

**11.** (1) Subject to subsection (2), a person who is, or was at any time, an inspector shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by him in connection with the administration or execution of this Act or the regulations. <sup>Disclosure of information.</sup>

Penalty : \$500.

(2) Subsection (1) does not operate to prevent the disclosure of information where that disclosure is—

- (a) made in connection with the administration or execution of this Act or the regulations;
- (b) made with the prior permission of the Minister; or

(c)

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- (c) ordered by a court, or by any other body or person authorised by law to examine witnesses, in the course of, and for the purpose of, the hearing and determination by that court, body or person of any matter or thing.

(3) The Minister shall grant the permission referred to in subsection (2) (b) only if he is satisfied that to do so would be in the public interest.

Proceedings  
for offences.

**12.** (1) Proceedings for an offence against this Act or the regulations may be disposed of summarily before a court.

(2) Any proceedings referred to in subsection (1) may be commenced only by information laid within 12 months after the time the offence is alleged to have been committed.

(3) In any proceedings referred to in subsection (1), a certificate purporting to be signed by a prescribed officer and to certify that a person specified in the certificate was an inspector on any date, or during any period, specified in the certificate shall be evidence of the facts so certified.

Offences  
by corpora-  
tion.

**13.** (1) Where a corporation contravenes any provision of this Act or the regulations, an individual who is a director or an officer concerned with the management of the corporation is guilty of an offence of contravening the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision;

(c)



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- (c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation; or
- (d) by reason of section 7, the corporation would not have been found guilty of the offence.

(2) An individual may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

**14.** (1) Where any person, as the employee of another person, who is in this section referred to as “the employer”, <sup>Liability of employers.</sup> contravenes any provision of this Act or the regulations, the employer is guilty of an offence of contravening the same provision unless he satisfies the court that—

- (a) he—
  - (i) did not authorise or permit the contravention by the employee; and
  - (ii) used all due diligence to prevent the contravention; or
- (b) by reason of section 7, the employee would not have been found guilty of the offence.

(2) The employer may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any person by whom an offence against that provision is actually committed.

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Regulations. **15.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to exempting persons, or a person of a prescribed class of persons, from compliance with some or all of the provisions of sections 4, 5 and 6 in prescribed cases and, for that purpose, for or with respect to the issue, suspension, revocation, duration and terms or conditions of permits or orders under the regulations.

(2) Regulations may—

- (a) apply differently according to such factors as may be specified in the regulations;
  - (b) provide that any act or thing may only be done or shall be in accordance with the approval or to the satisfaction of a prescribed person or a person of a prescribed class of persons;
  - (c) empower a prescribed person or a person of a prescribed class of persons to—
    - (i) insert terms or conditions in permits or orders to be issued under the regulations;
    - (ii) issue permits or orders under the regulations; or
    - (iii) suspend or revoke a permit or an order issued under the regulations; and
  - (d) impose a penalty not exceeding \$500 for any breach of a regulation.
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