

## DAIRY INDUSTRY (AMENDMENT) ACT.

Act No. 31, 1940.

George VI.  
No. 31, 1940. An Act to make further provision for regulating the manufacture or preparation of margarine; to amend the Dairy Industry Act, 1915-1938, in certain respects; and for purposes connected therewith. [Assented to, 11th November, 1940.]

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## Dairy Industry (Amendment) Act.

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**B**E it enacted by the King'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 "Dairy Industry (Amendment) Act, 1940."

Short title, citation and commencement.

(2) The Dairy Industry Act, 1915-1938, as amended by this Act, may be cited as the Dairy Industry Act, 1915-1940.

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

**2.** The Dairy Industry Act, 1915-1938, is amended—

Amendment of Act No. 45, 1915.

(a) (i) by inserting in section two after the definition of "Butter fat" the following new definitions:—

Sec. 2.  
(Definitions.)

"Cooking margarine" means margarine which contains beef fat or mutton fat or beef fat and mutton fat in a quantity of not less than ninety per centum by weight of the total quantity of fat and oil contained in such margarine.

"Cooking margarine license" means a license to manufacture only cooking margarine.

(ii) by omitting from the same section the definition of "Margarine" and by inserting in lieu thereof the following definition:—

"Margarine" means any substance—

(a) which resembles butter or which is capable of being used as a substitute for butter whether for cooking or for eating purposes or for both cooking and eating purposes;

(b) which is manufactured or prepared wholly or mainly from one or more fats or oils or a combination of one or more fats and oils; and

(c)

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(c) the fatty contents of which are not derived exclusively from milk—

but does not include dripping or lard or any single fat sold as such fat.

(iii) by inserting in the same section after the definition of "Store" the following new definitions:—

"Table margarine" means margarine which is not cooking margarine.

"Table margarine license" means a license to manufacture only table margarine.

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

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Sec. 9.  
(Powers of  
inspectors.)

(b) by inserting at the end of section nine the following new paragraphs and subsection:—

(d) at any reasonable time—

(i) enter and search any place in which margarine or any fat, oil or other substance of any kind commonly used in the manufacture or preparation of margarine is manufactured, prepared, stored, packed or sold or is suspected by the inspector to be manufactured, prepared, stored, packed or sold; and

(ii) inspect any such margarine fat, oil or other substance; and

(iii)

(iii) without payment take samples of any such margarine, fat, oil or other substance, and for such purpose open or cause to be opened any package which contains or which the inspector suspects to contain any such margarine, fat, oil or other substance;

(e) at any reasonable time enter any place where he suspects that any accounts, books or documents relating to margarine or to any fat, oil or other substance of any kind commonly used in the manufacture of margarine are kept, and may inspect, make copies of and take extracts from any such accounts, books or documents.

(2) Any person who—

(a) prevents or attempts to prevent any inspector from exercising any power conferred on him by or under this Act; or

(b) hinders or obstructs any inspector in the exercise of any such power—

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding twenty pounds.

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

22A. (1) After the expiration of one month from the commencement of the Dairy Industry (Amendment) Act, 1940—

(a) no person shall manufacture or prepare cooking margarine unless he holds a cooking margarine license;

(b) no person shall manufacture or prepare table margarine unless he holds a table margarine license;

(c) no person shall manufacture or prepare any margarine on any premises other than the premises specified in a license held by him;

(d)

New secs. 22A, 22B, 22C, 22D.

Manufacturers of margarine to be licensed.

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(d) no person shall manufacture or prepare any margarine in contravention of any condition of the license held by him.

(2) Every application for a license under this section shall be made to the Minister, shall be in or to the effect of the form prescribed, and shall be accompanied by the prescribed fee. The application shall state the type of margarine which it is proposed to manufacture or prepare and such other particulars as are prescribed.

(3) The Minister may at his discretion grant or refuse any application for a license: Provided that—

(a) an applicant for a license in respect of premises which at the commencement of the Dairy Industry (Amendment) Act, 1940, are registered under section five of this Act shall, if his application is duly made within one month after such commencement, be entitled to be granted a license in respect of those premises for the manufacture or preparation of the type of margarine manufactured by him on those premises at such commencement; and

(b) where a license is applied for by way of renewal of a prior license, which has not been cancelled, the applicant shall be entitled to be granted such a license unless during the period of operation of the prior license—

(i) the applicant has been convicted of an offence against this Act; or

(ii) the applicant has contravened or failed to comply with any of the conditions of the prior license.

(4) Every license shall be in or to the effect of the form prescribed and shall subject to this Act remain in force until the thirtieth day of June next following the date of issue thereof but may be renewed from time to time upon application duly made. (5)

(5) On application in the prescribed form a license may at any time during the currency thereof be transferred in the prescribed manner so as to apply to any other person or premises approved by the Minister.

(6) (a) Every table margarine license shall contain a condition specifying the maximum amount of table margarine which may be manufactured or prepared by the holder of the license during the currency of the license.

(b) In any such license, which is granted by way of renewal of a prior license, the maximum amount of table margarine which may be specified therein in pursuance of this subsection shall not be less than the amount specified in the original license granted under this Act.

(c) The total quantity of table margarine which may be specified in the aggregate for all licenses issued for any period of twelve months ending on the thirtieth day of June shall not exceed one thousand two hundred and forty-eight tons.

(7) (a) The Minister may cancel a license upon the conviction of the holder thereof of any offence against this section or against section 22B of this Act.

(b) If a table margarine license is so cancelled, the Minister may, subject to this Act—

- (i) grant a new table margarine license for the unexpired term of the cancelled license; or
- (ii) vary the conditions of the other current table margarine licenses by increasing proportionately the respective maximum amounts specified therein.

(8) Any person who contravenes any provision of this section shall be guilty of an offence against this Act and shall be liable upon

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Manufacture  
by cooking  
margarine  
licensees of  
certain type  
of margarine  
for sale to  
prescribed  
classes of  
persons.

upon summary conviction to a penalty not exceeding one hundred pounds and to an additional penalty not exceeding twenty pounds for every day on which the offence is continued.

22B. (1) Notwithstanding anything in this Act or in any license any person who holds a cooking margarine license may manufacture for sale only to any prescribed person or class of persons in lumps of not less than fourteen pounds margarine which contains beef fat or mutton fat or beef fat and mutton fat in a quantity of between seventy-five and ninety per centum by weight of the total quantity of fat and oil contained in such margarine.

(2) Any person who—

- (a) packs any such margarine so manufactured in lumps of less than fourteen pounds; or
- (b) sells any such margarine so manufactured—
  - (i) in lumps less than fourteen pounds; or
  - (ii) otherwise than to any such prescribed person or any person being a member of any such prescribed class of persons—

shall be guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding one hundred pounds.

22c. (1) Notwithstanding anything in this Act or in any license issued under this Act—

- (a) a special permit may from time to time be granted by the Minister to any person who holds a license under this Act authorising such person to manufacture or prepare for export beyond the Commonwealth of Australia such quantity of table margarine as is specified in the permit;

(b)

Permits to  
manufac-  
ture mar-  
garine for  
export.

- (b) application for such special permit shall be made as prescribed;
- (c) a special permit shall, subject to this Act, remain in force for the period specified in the special permit; but this paragraph shall not be construed to prevent the Minister from granting a further special permit under this section to a person who was or is the holder of a special permit which has expired or is about to expire;
- (d) the Minister may at his discretion grant or refuse any application for a special permit;
- (e) a person who holds a special permit under this section may during the period in which such permit remains in force manufacture or prepare table margarine for export in accordance with the terms and conditions of the permit.

(2) Every such special permit—

- (a) shall contain such conditions as the Minister thinks necessary to ensure that none of the margarine manufactured or prepared thereunder shall be sold or distributed within the Commonwealth of Australia and such other conditions as are prescribed; and
- (b) may be cancelled by the Minister upon breach of any condition thereof.

(3) Any person who contravenes or fails to comply with any condition of any such special permit shall be guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding one hundred pounds.

22D. (1) Every person who holds a table margarine license shall not later than the seventh day of each month furnish to the Minister in writing—

- (a) information as to the amount of table margarine manufactured, prepared or packed



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packed during the next preceding month at the premises specified in the license; and

(b) such other information as is prescribed.

(2) The Minister may by notice in writing require any person to furnish to him in writing a return or periodical returns within the time or times specified in the notice giving such information as may be required by the notice in respect of any margarine or any fat, oil or other substance of a kind commonly used in the manufacture or preparation of margarine which is or has at any time been in the possession, custody or control of that person.

(3) Any person who—

(a) fails to comply in any particular with the requirements of this section or of any notice under this section; or

(b) furnishes under this section any information which is false or misleading in any material particular—

shall be guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding one hundred pounds.

Sec. 25.  
(Regulations.)

(d) by inserting in subsection one of section twenty-five next after paragraph (r) the following new paragraphs:—

(s) prescribing the procedure for taking samples under this Act;

(t) prescribing the methods of analysis of any margarine for the purposes of this Act;

(u) prescribing chemical and physical criteria for the fatty portion of any type of margarine which shall constitute the basis of proof for the purposes of this Act that any margarine is or is not of such type.

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