

PURE FOOD (AMENDMENT) ACT.

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 79, 1969.

An Act to increase certain penalties for offences under the Pure Food Act, 1908, and certain regulations thereunder; to make provision for prohibiting the use of food stores, food vehicles and certain appliances that are in an unclean or insanitary condition; for these and other purposes to amend the Pure Food Act, 1908; and for purposes connected therewith. [Assented to, 3rd December, 1969.]

BE

Pure Food (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 79, 1969 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. This Act may be cited as the "Pure Food Short title. (Amendment) Act, 1969".

2. The Pure Food Act, 1908, is amended—

Amendment
of Act No.
31, 1908.

- (a) by omitting from section thirty-five the words "twenty dollars" and by inserting in lieu thereof the words "one hundred dollars";
- Sec. 35.
(Analysis
not to be
referred
to for
trade
purposes.)
- (b) (i) by omitting from subsection one of section thirty-six the words "one hundred dollars" and by inserting in lieu thereof the words "five hundred dollars";
- Sec. 36.
(Penalty
for offence
against
this Act.)
- (ii) by omitting from the same subsection the words "two hundred dollars" and by inserting in lieu thereof the words "one thousand dollars";
- (iii) by omitting from the same subsection the words "five hundred dollars" and by inserting in lieu thereof the words "two thousand dollars";
- (c) by omitting from section thirty-seven the words "forty dollars" and by inserting in lieu thereof the words "five hundred dollars";
- Sec. 37.
(Interfer-
ence with
official
marks or
seals.)
- (d) by omitting from section thirty-eight the words "forty dollars" and by inserting in lieu thereof the words "five hundred dollars";
- Sec. 38.
(Obstruction
of officer
in discharge
of his
duties.)

(e)

*Pure Food (Amendment).***No. 79, 1969****Sec. 39.**

(Forfeiture of articles of food or appliance.)

Sec. 39A.

(Power to prohibit carrying on of business by persons convicted of offence against Act or regulations.)

Sec. 51.

(Power to require information to be made available.)

New sec. 51A.

Power to close dirty food stores, etc.

- (e) by inserting in subsection one of section thirty-nine after the words "this Act" the words "or the regulations";
- (f) (i) by inserting in subsection one of section 39A after the word "Act" the words "or the regulations";
(ii) by omitting from subsection three of the same section the words "two hundred dollars" and by inserting in lieu thereof the words "one thousand dollars";
- (g) (i) by omitting from subsection three of section fifty-one the words "forty dollars" and by inserting in lieu thereof the words "five hundred dollars";
(ii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "five hundred dollars";
- (h) by inserting next after section fifty-one the following new section :—
- 51A. (1) In this section—
- "Director-General" means the Director-General of Public Health and includes a person acting as Director-General of Public Health;
- "food store" means any place or part of a place kept or used for the sale or storage, manufacture or preparation for sale of any food or drug;
- "food vehicle" means any vehicle kept or used for the delivery or conveyance for sale of any food or drug;
- "proprietor"—
- (a) in relation to a food store, means the owner or, where the owner is not the occupier, the occupier of the food store

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store and includes any person in charge or apparently in charge of the food store; No. 79, 1969

(b) in relation to a food vehicle, means—

(i) where the vehicle is not the subject of a hire-purchase agreement, the owner; or

(ii) where the vehicle is the subject of a hire-purchase agreement, the bailee under that agreement,

and includes any person in charge or apparently in charge of the vehicle; and

(c) in relation to an appliance, means—

(i) where the appliance is in a food store, the proprietor of the food store; and

(ii) where the appliance is in a food vehicle, the proprietor of the food vehicle.

(2) Where the Director-General is satisfied, by his own inspection or by the report of an officer, that any food store, food vehicle or appliance is in an unclean or insanitary condition, he may, by instrument in writing served on the proprietor of the food store, food vehicle or appliance, order that the food store, food vehicle or appliance be put into a clean and sanitary condition, to the satisfaction of an officer, within a period of twenty-four hours after the service of the instrument on the proprietor.

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(3) If, after the expiration of that period, the Director-General is not satisfied that the food store, food vehicle or appliance to which the order relates has been put into a clean and sanitary condition, the Director-General may, by instrument in writing served on the proprietor of the food store, food vehicle or appliance, as the case may be, order that—

- (a) the food store shall not be kept or used for the sale or storage, manufacture or preparation for sale of any food or drug;
- (b) the food vehicle shall not be kept or used for the delivery or conveyance for sale of any food or drug; or
- (c) the appliance shall not be used in or for the making, manufacturing, keeping, preserving, preparing, handling, serving or supplying of any food or drug,

until an officer has given to the proprietor of the food store, food vehicle or appliance, as the case may be, a certificate in writing certifying that the food store, food vehicle or appliance has been put into and is in a clean and sanitary condition.

(4) The proprietor of a food store, food vehicle or appliance on whom an order under subsection three of this section is served may at any time after the order has been served request, in writing, the Director-General to cause the food store to be inspected by an officer or the food vehicle or appliance to be so inspected at a place specified in the request.

(5) Where a request is so made and the food store, food vehicle or appliance to which the request relates is inspected by an officer within a period of twenty-four hours after the receipt of the

request

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request by the Director-General and the officer making the inspection refuses to give to the proprietor a certificate under subsection three of this section in respect of the food store, food vehicle or appliance, the proprietor may appeal against the refusal, in the manner prescribed by rules of court, to the District Court for the district in which the food store is situated or in which is situated the place at which he requested the food vehicle or appliance to be inspected. No. 79, 1969

(6) Where a request is so made and the food store, food vehicle or appliance to which the request relates is not inspected by an officer within a period of twenty-four hours after the receipt of the request by the Director-General, a certificate in respect of the food store, food vehicle or appliance shall be deemed, for the purposes of subsection seven of this section, to have been given to the proprietor under subsection three of this section.

(7) Where an order under subsection three of this section has been served on the proprietor of a food store, food vehicle or appliance and—

- (a) a certificate in respect thereof has not subsequently been given under that subsection; or
- (b) an appeal under subsection five of this section against the refusal of an officer to give such a certificate has not been allowed,

any person who—

- (c) keeps or uses the food store for the sale or storage, manufacture or preparation for sale of any food or drug;

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- (d) keeps or uses the food vehicle for the delivery or conveyance for sale of any food or drug; or
- (e) uses the appliance in or for the making, manufacturing, keeping, preserving, preparing, handling, serving or supplying of any food or drug,

shall be guilty of an offence against this Act and liable to a penalty not exceeding two thousand dollars or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

(8) An appeal under subsection five of this section shall be in the nature of a rehearing but shall not operate to stay the order made by the Director-General under subsection three of this section or affect the liability of any person for an offence under subsection seven of this section.

(9) The costs of an appeal under subsection five of this section shall be in the discretion of the court.

(10) An order under subsection two or three of this section may be made with respect to—

- (a) any food store or food vehicle specified in the order;
- (b) any food store or food vehicle so specified and all appliances contained therein or any appliances so specified and contained therein; or
- (c) any appliance so specified or all appliances contained in a food store or food vehicle so specified.

(i)

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- (i) (i) by omitting from subsection one of section **No. 79, 1969** fifty-four the words "prescribing penalties" and by inserting in lieu thereof the words "prescribing, in respect of the contravention of any regulation relating to the keeping of premises, food or appliances in a clean condition or free from vermin, penalties not exceeding five hundred dollars for the first offence, not exceeding one thousand dollars for the second offence and not exceeding two thousand dollars or imprisonment for a term of six months or both such penalty and imprisonment for a subsequent offence, and a continuing penalty not exceeding fifty dollars per diem and, in respect of the contravention of any other regulation, penalties";
- (ii) by omitting from the same subsection the words ", for a contravention of any provision of the regulations".

Sec. 54.
(Regulations made on recommendation of advisory committee.)