

# DAIRY PRODUCTS (AMENDMENT) ACT.

Act No. 26, 1938.

**George VI.**  
**No. 26, 1938.** An Act to amend the Dairy Products Act, 1933-1936, in certain respects; and for purposes connected therewith. [Assented to, 12th December, 1938.]

**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:—

**Short title and citation.** **1.** (1) This Act may be cited as the "Dairy Products (Amendment) Act, 1938."

(2) The Dairy Products Act, 1933-1936, as amended by this Act, may be cited as the "Dairy Products Act, 1933-1938."

**Amendment of Act No. 17, 1933.** **2.** The Dairy Products Act, 1933-1936, is amended—

**Sec. 2. (Interpretation).** (a) (i) by inserting in section two next before the definition of "Board" the following new definition:—

"Agent" means any person who acts on behalf of a manufacturer in or in connection with the disposal of butter or cheese;

(ii)

(ii) by inserting in the definition of "Board" in the same section next before the word "Dairy" the words "New South Wales";

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

"Cold store" means a place or premises used for cold storing any butter and/or cheese;

(iv) by inserting in the same section next after the definition of "Dairy products" the following new definition:—

"Dispose of" means to sell or to forward or deliver for sale; and words derived therefrom have a corresponding meaning;

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

"Manufacturer" means a person who manufactures butter and/or cheese or who causes butter and/or cheese to be manufactured, but the term does not include a processor as such;

(vi) by inserting in the same section next after the definition of "Prescribed" the following new definition:—

"Processor" means a person who comminutes, pasteurises or re-emulsifies cheese;

(vii) by omitting from the same section the definition of "Public notice";

(viii) by omitting from the definition of "Quota" in the same section the words "for the time being" and by inserting in lieu thereof the words "during the stated period for which the quota operates";

(ix) by inserting in the definition of "Sell" in the same section next after the word "exchange" the words "or transfer the property in";

(b)

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Substituted  
secs. 6  
and 7.Determina-  
tion and  
promulga-  
tion of a  
quota.

(b) by omitting sections six and seven and by inserting in lieu thereof the following sections:—

6. (1) The Minister may from time to time, upon the recommendation of the Board, determine quotas for butter and cheese respectively.

(2) Every quota shall be promulgated by the Minister by notice published in the Gazette. The quota shall operate for the period stated in the notice (in this Act referred to as the "stated period").

(3) The expiration of the stated period for which any quota operates shall not affect the operation of that quota during or in respect of that stated period or anything duly done or suffered or any right, limitation of right, privilege, obligation, liability or penalty acquired, imposed, accrued, or incurred by any person by reason of the operation of that quota during or in respect of that stated period.

This subsection shall not be construed so as to limit the operation of section seven of this Act.

7. (1) Except as provided by subsection three of this section no manufacturer shall, during any stated period, sell, in the course of his intra-State trade or commerce in New South Wales, an amount of butter or of cheese as the case may be (manufactured by him during or prior to that stated period) which exceeds the amount ascertained by applying the quota operating for that stated period to the total amount of butter or of cheese (as the case may be) manufactured by him during that stated period.

(2) Any manufacturer who contravenes any of the provisions of this section shall be liable on conviction—

(a) where the contravention is in respect of the sale of butter—to a penalty of not less than four pounds and not more than six pounds for every hundredweight or part thereof of butter sold in excess of the amount ascertained by applying the quota operating

Certain  
sales  
prohibited.

operating for the stated period to the total amount of butter manufactured by such manufacturer during the stated period; and

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- b) where the contravention is in respect of the sale of cheese—to a penalty of not less than two pounds and not more than three pounds for every hundredweight or part thereof of cheese sold in excess of the amount ascertained by applying the quota operating for the stated period to the total amount of cheese manufactured by such manufacturer during the stated period.

(3) This section shall not, in respect of any stated period, apply to the sale of butter or of cheese, as the case may be, by a manufacturer who, during that stated period, does not sell a total amount of butter or of cheese, as the case may be, which exceeds forty pounds in weight.

- (c) by omitting section nine and by inserting in lieu thereof the following section:—

Substituted  
sec. 9.

9. (1) Every agent, proprietor of a cold store, and manufacturer shall furnish to the Board at its office in Sydney periodical returns in the form prescribed and at the times prescribed giving the prescribed particulars in respect of the butter and/or cheese in his possession or control or manufactured by him during the periods prescribed. Different forms may be prescribed for agents, proprietors of cold stores and manufacturers and for different classes of agents, proprietors of cold stores or manufacturers.

(2) Any agent, proprietor of a cold store or manufacturer who neglects or refuses to furnish any return required by subsection one of this section within the time prescribed or who furnishes any return which does not give the prescribed particulars or which gives any particulars which are false in any respect, shall be liable on conviction to a penalty not exceeding one hundred pounds.

(d)

**No. 28, 1938.**Sec. 12.  
(Correc-  
tion.)New sec.  
14A.

Evidence.

- (d) by omitting from subsection one of section twelve the word "produce" and by inserting in lieu thereof the word "products";
- (e) by inserting next after section fourteen the following new section:—

14A. In any action, suit or proceedings the production of any return furnished under this Act and purporting to be signed by or on behalf of an agent, proprietor of a cold store, or manufacturer required to furnish returns under this Act, shall be prima facie evidence of the particulars given in the return and that such return was made by the agent, proprietor of a cold store or manufacturer by or on behalf of whom the return purports to be signed.

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