



ANNO TERTIO

## GEORGII VI REGIS.

A.D. 1939.

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### No. 37 of 1939.

An Act to regulate the manufacture and sale of margarine, to amend the Dairy Industry Act, 1928-1937, so as to provide that it shall not apply to margarine, and for other purposes.

[Assented to 14th December, 1939.]

BE IT ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Margarine Act, 1939". Short title.
2. (1) The Margarine Act, 1934, is repealed. Repeal of Margarine Act and amendments of Dairy Industry Act.  
 (2) The Dairy Industry Act, 1928-1937, is amended as follows :—
  - (a) The definition of "factory" in section 4 thereof is amended by striking out the words "or margarine" in the fourth line thereof :
  - (b) Subsection (2) of section 8 thereof is repealed :
  - (c) Section 11 thereof is amended by striking out the words "or margarine" in the first and fifth lines of paragraph (c) thereof and in the fifth line of paragraph (d) thereof.
3. (1) In this Act, unless the context otherwise requires or Interpretation. some other meaning is clearly intended—
  - "Australia" means the States of the Commonwealth, the Northern Territory and the Federal Capital Territory :
  - "butterfat" means the fat of cow's milk :

“inspector” means a person who is by this Act declared to be an inspector under this Act, or who is appointed as an inspector under this Act :

“licence” means a licence to manufacture margarine issued under this Act and for the time being in force, and includes both an original licence and a licence issued by way of renewal of a prior licence :

“margarine” means any substance—

(a) which is capable of being used as a substitute for butter ; and

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

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

“package” means cask, keg, crate, box, case, wrapper, tin and any other receptacle or covering :

“place” includes any land, buildings, premises, ship, boat, barge, or vehicle whether owned by the Crown or any other person :

“to sell” includes to barter, and to offer or agree to sell or barter, and all parts of the verb “to sell” have a corresponding meaning :

“sale” includes barter and any offer or agreement to sell or to barter :

“table margarine” means margarine containing any fat or oil which has been produced elsewhere than in Australia.

(2) This Act shall be 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, if any provision hereof would, apart from this section, be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

*Administration.*

Administration  
of Act.

4. This Act shall be administered by the Minister of Agriculture.

Inspectors and  
analysts.

5. (1) Every inspector under the Dairy Industry Act, 1928-1937, shall, by virtue of his office as such inspector, be an inspector under this Act.

(2) The Governor may appoint any other persons to be inspectors under this Act.

(3) The Governor by notice in the *Gazette*—

(a) may declare that any person shall be an approved analyst for the purposes of this Act ; and

- (b) may, if he is of opinion that just cause exists for doing so, declare that any person who has been so declared to be an approved analyst, shall cease to be an approved analyst for the purposes of this Act.

6. Subject to this Act, an inspector may at any reasonable time—

Power of inspectors as to entry, inspection and samples.

- (a) enter and search any place in which margarine, or any fats, oils, or other substances of any kind commonly used in the manufacture of margarine are manufactured, stored, packed, or sold, or are suspected by the inspector to be manufactured, stored, packed, or sold :
- (b) inspect any such margarine, fats, oils, or other substances, or any plant, machinery, apparatus, or utensils in or upon any such place as mentioned in paragraph (a) :
- (c) take samples of any such margarine, fats, oils, or other substances, as mentioned in paragraph (a) and for the purpose of taking any such samples open or cause to be opened any package which contains or which the inspector suspects to contain any such margarine, fats, oils, or substances.

7. When an inspector takes a sample of any substance for the purpose of having it analyzed he shall—

Procedure on taking sample.

- (a) divide the sample into three approximately equal parts :
- (b) place each such part in a separate package and seal or fasten each such package :
- (c) place on each such package a label stating, so far as known to him, the name of the occupier of the place where the sample was taken :
- (d) deliver one of the parts to the person in charge or apparently in charge of the said place :
- (e) retain one of the parts for future comparison :
- (f) forward the other part for analysis by an approved analyst.

8. For the purposes of this Act any inspector may at any reasonable time enter any place where he suspects that any accounts, books, or documents relating to margarine or to any fats, oils, or other substances of any kind commonly used in the manufacture of margarine are kept, and may inspect, make copies of, or take extracts from any such accounts, books, or documents.

Inspection of books and accounts.

Penalty for  
hindering  
inspectors.

**9.** If any person prevents or attempts to prevent any inspector from exercising any power conferred upon him by or under this Act, or hinders any inspector whilst exercising any such power, he shall be guilty of an offence.

Returns as to  
margarine.

**10.** (1) The Minister may by notice in writing require any person to furnish to him, to the best of the knowledge and ability of such person, and within a time specified in the notice, any information as to any margarine or any fat, oil, or other substance of a kind commonly used in the manufacture of margarine which is or has at any time been in the possession, custody, or control of that person.

(2) If any person—

(a) fails to comply with any such notice in any particular ;  
or

(b) wilfully furnishes in response to any such notice any information which is false or misleading,

he shall be guilty of an offence.

*Licensing of Margarine Manufacturers.*

Duty to hold  
licence to  
manufacture.

**11.** (1) No person shall manufacture any margarine—

(a) unless he holds a licence ; or

(b) on any premises other than the premises specified in a licence held by him ; or

(c) in contravention of any term or condition of a licence held by him.

(2) If any person contravenes this section he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds, and in the case of a continuing offence to an additional fine not exceeding twenty pounds for every day on which the offence is continued.

Applications  
for licences.

**12.** (1) Every application for a licence shall be made to the Minister in the form prescribed.

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

(a) the owner of any factory which at the time of the commencement of this Act is registered under section 4 of the Margarine Act, 1934, shall upon application duly made be entitled to be granted a licence in respect of that factory :

(b) where a licence is applied for by way of renewal of a prior licence which has not been cancelled, the Minister shall not refuse a licence by way of renewal unless the applicant has been convicted of an offence against this Act, committed during the period of operation of the prior licence, or has contravened or failed to observe any term or condition of the prior licence.

13. Subject to this Act, every licence shall remain in force for twelve months after the date of the issue thereof, but may be renewed from time to time upon application duly made.

Duration of licence.

14. Every licence shall be in the form fixed by the Minister and shall contain such terms and conditions (if any) as are prescribed.

Form and conditions of licence.

15. For every licence there shall be payable such annual fee, not exceeding five pounds, as is prescribed, and no licence shall be issued until the prescribed fee has been paid therefor.

Fee for licence.

16. No licence shall be granted in respect of any premises which are within one hundred yards of any butter factory.

No licence for premises near butter factories.

17. Where the holder of a licence has acquired any margarine factory either in addition to, or in substitution for that mentioned in his licence, the Minister may on the application of that holder indorse a declaration on the licence that it shall apply to the said factory either in addition to, or, as the case may be, in substitution for the factory mentioned in the licence, and upon such an indorsement being made the licence and all its terms and conditions shall apply accordingly.

Change of premises.

18. If the holder of a licence dies, his personal representatives, for the purposes of carrying out their duties as such—

Death of holder of licence.

- (a) shall, subject to this Act, be entitled to continue to manufacture margarine under and in accordance with the licence until the expiration thereof as if the licence had been granted to them :
- (b) shall, subject to this Act, be entitled to renewals of the licence from time to time :
- (c) shall be entitled to transfer the licence and all their rights in respect thereof to any other person.

Transfer of  
licence.

19. (1) A licence may, with the consent of the Minister, be transferred.

(2) The Minister shall not capriciously withhold his consent to the transfer of any licence.

(3) No transfer of a licence shall be of any validity unless the Minister has indorsed a memorandum thereof on the licence.

*Regulation of the Manufacture of Margarine.*

Control of  
amount of  
margarine to be  
manufactured.

20. (1) The Minister may by notice in the *Gazette* declare the maximum quantity of table margarine which any person named in the declaration may manufacture during the period specified in the declaration.

The period to be so specified shall be—

(a) in a notice which comes into operation after the first day of January in any year, the balance of that year:

(b) in a notice which comes into operation on the first day of January in any year, the whole of that year.

Every such notice shall be published in the *Gazette* not later than one month before the commencement of the period to which it relates.

(2) The quantity of table margarine to be declared in the first declaration made under subsection (1) of this section with respect to any person shall—

(a) if the period specified in the declaration is a whole year, be not less than the quantity of table margarine manufactured by that person during the last previous year:

(b) if the period specified in the declaration is part of a year, be not less than the prescribed part of the quantity of table margarine manufactured by that person during the period of twelve months immediately preceding the said period. The prescribed part of the said quantity shall be a part bearing the same ratio to the whole of the said quantity, as the period specified in the declaration bears to twelve months.

(3) The quantity of table margarine to be declared in any subsequent declaration made under subsection (1) of this section with respect to any person shall, unless that person otherwise consents, be not less than the quantity declared in the first declaration.

(4) If any person in any period specified in a declaration applying to him manufactures or sells any table margarine in excess of the maximum quantity which he is allowed to manufacture during that period pursuant to the declaration, he shall be guilty of an offence.

21. (1) Notwithstanding any other provision of this Act, the Minister may grant a special permit to any person authorizing him to manufacture for export beyond the Commonwealth such quantity of table margarine as is specified in the permit. Margarine for export.

(2) Every such special permit—

(a) shall contain such conditions as the Minister thinks proper to ensure that none of the margarine manufactured thereunder shall be sold or distributed within the Commonwealth and any other terms and conditions prescribed :

(b) may be cancelled by the Minister upon breach of any conditions thereof.

(3) Any person who contravenes any condition of any such special permit, whether by act or omission, shall be guilty of an offence.

22. No person shall manufacture or sell or have in his possession for sale any margarine which contains any butterfat : Provided that it shall be permissible to manufacture, sell, or have in possession for sale margarine containing butterfat derived from skim milk which contained not more than one twentieth of one per centum of butterfat and was used as an emulsifying agent in the manufacture of the said margarine. Margarine not to contain butterfat.

23. No person shall manufacture, sell or have in his possession for sale any margarine unless one-tenth of one per centum by weight of such margarine consists of dry starch or arrowroot intimately mixed with the other constituents of the margarine. Substance to be included in margarine.

24. No person shall sell or have in his possession for sale— Duty to label margarine.

(a) any margarine in a package unless there is written or printed on the package in bold-faced sans-serif black capital letters of not less than 30 points face measurement the word " margarine " :

(b) any bread, rolls or other like foodstuff on which margarine is spread, or any margarine for consumption on the premises on which it is sold or held in possession for sale, unless there is posted in a conspicuous place on the wall of the room in which the bread, rolls, foodstuff, or margarine is sold or held in possession for sale a notice containing in bold-faced sans-serif black capital letters of not less than 108 points face measurement the words " Margarine is served here " :

(c) on any premises where food or meals is or are sold to the public for consumption on those premises, any margarine for consumption by customers on those premises unless every vessel or package in which

margarine is supplied bears thereon the word "margarine" in bold-faced sans-serif black capital letters of not less than 18 points face measurement.

## Regulations.

**25.** The Governor may make regulations—

- (a) requiring all margarine to be branded, marked, labelled, or stamped in the manner prescribed and forbidding the sale of margarine not complying with the regulations as to branding, marking, labelling, or stamping :
- (b) empowering inspectors to seize and retain pending the decision of the court, any margarine which does not comply with this Act or the regulations, or has been manufactured in contravention of this Act or in respect of which an offence against this Act has been committed, and empowering courts of summary jurisdiction to order that any such margarine shall be forfeited to the Crown, or to make any other order as to the disposal of margarine seized by an inspector:
- (c) for securing information as to the manufacture, ingredients, sale, stocks, and prices of margarine :
- (d) prescribing fees to be paid and forms to be used under this Act :
- (e) prescribing penalties recoverable summarily and not exceeding fifty pounds for breach of any regulation :
- (f) prescribing any other matters necessary or convenient to be prescribed for carrying this Act into operation and securing the due observance of this Act.

## Penalty.

**26.** The penalty for any offence against this Act for which no penalty is elsewhere provided shall be a fine not exceeding one hundred pounds.

## Offences.

**27.** Any contravention of this Act whether by act or omission shall be an offence.

## Procedure for offences.

**28.** Proceedings for offences against this Act shall be disposed of summarily.

## Financial provision.

**29.** Any moneys required to defray the cost of the administration of this Act shall be paid out of moneys provided by Parliament for that purpose.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.