



ANNO QUINTO

GEORGI VI REGIS.

A.D. 1941.

No. 32 of 1941.

An Act to regulate the sale of stock foods.

[Assented to 13th November, 1941.]

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

- Short title.** 1. This Act may be cited as the " Stock Foods Act, 1941 ".
- Commence-
ment.** 2. This Act shall come into operation on a day to be fixed by proclamation.
- Interpretation.** 3. In this Act, unless the context or subject matter otherwise requires—

" by-product " includes husks, bran, pollard, brewer's grains and materials produced from any kind of grain in any process of treatment or manufacture not being the primary object of such process and also includes any other commodity, substance, material or matter which may be declared by the regulations to be a by-product for the purposes of this Act :

" inspector " means the chief inspector and any person appointed as an inspector for the purposes of this Act :

" manufactured stock food " includes—

- (a) all kinds of meals and foods for stock prepared whether in whole or in part from one or more kinds of grain or nuts or oils or juices or meats or other substances of a like nature ; and

(b) any condimental, patented or proprietary foods for stock claimed to possess nutritive properties or nutritive as well as medicinal properties :

“ package ” includes anything in or by which any stock food is cased, covered, enclosed, contained or packed :

“ sell ” includes barter or exchange and also includes agreeing to sell or sending, forwarding or delivering for or on sale or causing, suffering or attempting any of such acts or things ; and derivatives from “ sell ” have a corresponding meaning :

“ stock ” means any animal or bird of the following kinds or species, namely :—horse, cow, sheep, goat, pig, dog, domestic fowl, duck, goose, turkey or pigeon :

“ stock food ” means any by-product or manufactured stock food.

4. This Act shall not apply to or to the sale of—

Non-application of Act.

(a) any stock medicine within the meaning of the Stock Medicines Act, 1939 ;

(b) any stock lick within the meaning of the Stock Licks Act, 1931 ;

(c) any chaff or hay within the meaning of the Chaff and Hay Act, 1922-1938.

5. (1) Every person who sells any stock food shall either—

Label or invoice on sale of stock food.

(a) securely and conspicuously affix or cause to be affixed to every package containing the stock food a label in accordance with this section ; or

(b) deliver or cause to be delivered to the purchaser, at the time the stock food is sold or delivered, an invoice certificate in writing in accordance with this section.

(2) On every such label or invoice certificate there shall be set out—

(a) the name and place of business of the person who manufactured or imported into South Australia the stock food or who was primarily responsible for placing the same on the market in South Australia ;

(b) the distinguishing name (if any) of the stock food ;

(c) a chemical analysis of the stock food stating—

- (i.) the minimum percentage of crude protein ;
- (ii.) the minimum percentage of crude fat ; and
- (iii.) the maximum percentage of crude fibre, contained in the stock food ; and

(d) such other particulars as are prescribed.

(3) The provisions of subsections (1) and (2) of this section shall not apply in any case where a retailer breaks a package labelled as herein provided of any such stock food in order to sell portion of the stock food contained in the package without altering or adding to the stock food.

(4) This section shall extend so as to apply to any block, cake or slab of stock food which is not contained in a package ; and for the purposes of such application a reference to the package containing the stock food shall be construed as a reference to the surface of the block, cake or slab.

Warranty
on sale.

6. (1) A label affixed as aforesaid or an invoice certificate given as aforesaid shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained therein are correct.

(2) Any statement as to the amount of the nutritive or other ingredients of an article sold for use as a stock food, made by the seller in any written document relating thereto given to the purchaser or in any circular or advertisement descriptive of the article, shall have effect as a warranty by the seller that the facts stated are correct.

(3) No action on any such warranty as is mentioned in this section shall lie for any mis-statement therein as to the particulars therein specified, or as to the amount of any ingredient, where the mis-statement does not exceed the limits of variation (if any) prescribed under any regulations made under this Act in relation to such particulars or amounts, but where the mis-statement exceeds such limits, the right of the purchaser under the warranty shall not be affected by such limits.

Power to
prescribe
standards.

7. (1) The Governor may, by regulation—

- (a) prescribe substances which shall be deemed foreign ingredients relative to any stock food, and provide that the proportion or amount of such foreign ingredients that may be contained in any stock food shall not exceed the proportion or amount prescribed ;

- (b) prescribe physical or chemical standards for any stock foods, and methods for determining the same ;
- (c) prescribe that no person shall sell, offer or expose for sale, or have in his possession for sale any stock food unless such regulations are duly observed.

(2) Any person who acts in contravention of any regulation made under this section, or fails to comply therewith, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

8. (1) If any person—

- (a) who sells any stock food fails without reasonable excuse either to affix a label as required by subsection (1) of section 5 or to give on or before or as soon as possible after the delivery of the stock food, an invoice certificate as required by subsection (1) of section 5 ; or
- (b) who sells any stock food, causes or permits any such label or invoice certificate to be false in any material particular to the prejudice of the purchaser ; or
- (c) sells or offers or exposes for sale or has in his possession for sale for use as a stock food any article which contains any ingredient deleterious to stock, or to which has been added any ingredient worthless for the purposes of a stock food and not disclosed in writing to the purchaser at the time of sale,

Penalties for
breach of duty
by seller.

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

(2) A person shall not be convicted of an offence under paragraph (b) of subsection (1) if he proves either—

- (a) that he did not know, and could not with reasonable care have ascertained, that the label or invoice certificate was false ; or
- (b) that he purchased the article sold with a written warranty or invoice certificate from a person in South Australia, and that that warranty or invoice certificate contained the false statement in question, and that he had no reason to believe at the time when he sold the article that the statement was false, and that he sold the article in the state in which it was when he purchased it.

9. (1) Any inspector may, at any time in the daytime, enter any warehouse, store, shop, building, or place where any stock food is kept or exposed for sale, and demand and take samples thereof.

Powers of
inspectors.

(2) An inspector may at any time take samples of any stock food from any railway truck, car, cart, lorry, van, or other vehicle in which the same may be in course of transit to a purchaser.

(3) Three samples shall be taken by the inspector in each case and marked, sealed, and fastened by the inspector in the presence of the dealer or his representative, or, if the samples are taken under subsection (2) of this section, in the presence of a justice or a member of the police force, and shall be disposed of as follows :—

- I. One sample shall be delivered to the person in charge of, or left upon, the premises (if any) from which it was taken or if taken in course of transit as aforesaid, shall be delivered to the vendor or any agent of the vendor in South Australia, or left at the principal place of business in South Australia of such vendor or agent :
- II. One may be utilized for analysis by an analyst ; and
- III. One shall be retained by the inspector for future comparison.

Publication of
result of
analysis.

10. The result of the analysis of any sample of any stock food taken by an inspector, together with the name and address of the dealer from whom the sample was obtained, or of the vendor, may be published in the *Gazette* and in such other manner as the Minister may think fit, and a statement of the result of any analysis shall be sent forthwith to the person from whose possession the sample was taken, or if taken in transit to the vendor or an agent of the vendor in South Australia.

Tampering
with sample.

11. Any person who—

(a) tampers with any parcel of stock food so as to procure that any sample of it taken in pursuance of this Act does not correctly represent the contents of the parcel ; or

(b) tampers with any sample taken under this Act, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty pounds.

Certificate of
analyst.

12. (1) Any analyst appointed under the Food and Drugs Act, 1908-1939, analysing any substance submitted to him in pursuance of this Act, may give a certificate of the result of the analysis.

(2) In any legal proceedings with respect to any substances analysed in pursuance of this Act, the production of a certificate purporting to be signed by any such analyst shall be *prima facie* evidence of the identity of the substance analysed and of the result of the analysis, without proof of the signature or appointment of the person appearing to have signed the same.

13. In any proceedings for an offence under this Act it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the stock food, though deficient in one or more constituents, was not deficient in other constituents. Defence.

14. Where by this Act it is required that a label shall be affixed to a package it shall be a sufficient compliance if the particulars required to be given on the label are legibly and durably branded, stamped or marked upon the package. Marking of package in lieu of label.

15. A prosecution for an offence under this Act may be instituted either by the person aggrieved, by an inspector, or by any person authorized by the Chief Inspector of Stock. In any proceedings under this Act, the appointment of any person as an inspector, and the authorizing of any person to prosecute for any offence, shall be presumed, unless the defendant proves the contrary. Who may prosecute.

16. The Governor may appoint such inspectors under this Act as may be necessary for the administration of this Act. The Chief Inspector of Stock shall, without any further appointment than this section, be the chief inspector under this Act. Appointment of inspectors.

17. All proceedings for offences under this Act shall be disposed of summarily. Summary procedure for offences.

18. Any person convicted of an offence against this Act shall be liable, in addition to any penalty imposed, to pay any expenses incurred by the prosecution in obtaining an analysis as part of the cost of the proceedings. Costs of analysis.

19. No proceedings taken under this Act against any person shall in any way interfere with or lessen any right or remedy by civil process of any party aggrieved by any offence against this Act. Saving of civil remedy.

20. The Governor may make regulations— Regulations.

- (a) prescribing the manner in which the particulars relating to any stock food shall be written on the package containing it or on a label affixed to the

package or on an invoice certificate delivered with it and the manner in which a label containing the particulars shall be affixed to a package ;

- (b) prescribing the size and type of labels to be affixed to any stock food ;
- (c) declaring any commodity, substance, material or matter to be a by-product for the purposes of this Act ;
- (d) prescribing limits of variation to be permitted in statements with respect to any stock foods as to the amounts of the ingredients of such stock foods and as to any other particulars relating to such stock foods ;
- (e) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

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

C. M. BARCLAY-HARVEY, Governor.