

SOUTH AUSTRALIA

**MARGARINE ACT, 1939**

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## **MARGARINE ACT, 1939**

being

Margarine Act, 1939, No. 37 of 1939  
[Assented to 14 December 1939]

as amended by

Margarine Act Amendment Act, 1940, No. 35 of 1940 [Assented to 21 November 1940]

Margarine Act Amendment Act, 1941, No. 45 of 1941 [Assented to 27 November 1941]

Margarine Act Amendment Act, 1948, No. 19 of 1948 [Assented to 11 November 1948]

Margarine Act Amendment Act, 1952, No. 31 of 1952 [Assented to 27 November 1952]

Margarine Act Amendment Act, 1956, No. 30 of 1956 [Assented to 15 November 1956] (as amended by Statute Law

Revision Act (No. 2), 1974, No. 84 of 1974 [Assented to 21 November 1974])

Margarine Act Amendment Act, 1973, No. 32 of 1973 [Assented to 4 October 1973]

Margarine Act Amendment Act, 1974, No. 114 of 1974 [Assented to 5 December 1974]<sup>1</sup>

Margarine Act Amendment Act, 1975, No. 39 of 1975 [Assented to 10 April 1975]<sup>2</sup>

<sup>1</sup> Came into operation (except s. 6) 1 April 1975: *Gaz.* 27 March 1975, p. 1263; s. 6 came into operation 1 January 1976: s. 2(2).

<sup>2</sup> Came into operation 1 April 1975: s. 2.

**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.**

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 *Margarine Act, 1939*.

**Repeal of Margarine Act and amendments of Dairy Industry Act**

2. (1) The *Margarine Act, 1934*, is repealed.

(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- (b) Subsection (2) of section 8 thereof is repealed: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.

**Interpretation**

3. (1) In this Act, unless the context otherwise requires or 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:

"dairy blend" means dairy blend as defined for the purposes of the *Dairy Industry Act, 1928-1974*:

"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

3.

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

but does not include dairy blend:

"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—

- (a) margarine containing any fat or oil produced elsewhere than in Australia or any fat or oil obtained from any product produced elsewhere than in Australia:
- (b) any other margarine which the Governor by regulation declares to be table margarine,

but does not include any margarine which the Governor by regulation declares not to be table margarine.

(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.

#### **Regulations as to table margarine**

**3a.** The Governor may by regulation—

- (a) declare that any margarine defined, described, or otherwise specified in the regulation shall be table margarine;
- (b) declare that any margarine defined, described, or otherwise specified in the regulation, which margarine is, for the time being, table margarine within the meaning of the definition of table margarine in this Act, or of any regulation under this Act, shall not be table margarine:
- (c) revoke or vary any regulation for the time being in force under this section.

#### *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.

**Power of inspectors as to entry, inspection and samples**

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

(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.

**Procedure on taking sample**

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

(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.

### **Inspection of books and accounts**

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.

### **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 two hundred dollars, and in the case of a continuing offence to an additional fine not exceeding forty dollars for every day on which the offence is continued.

### **Applications for licence**

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.

**Duration of 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.

**Form and conditions 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.

**Fee for licence**

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

**No licence for premises near butter factories**

16. No licence shall be granted in respect of any premises which are within 90 metres of any butter factory.

**Change of premises**

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 endorse 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 endorsement being made the licence and all its terms and conditions shall apply accordingly.

**Death of holder of licence**

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

- (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 endorsed a memorandum thereof on the licence.

*Regulation of the Manufacture and Sale of Margarine*

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**Margarine not to contain butterfat**

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.

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**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:
  - (c1) for prescribing the ingredients to be used in the manufacture of table margarine:
  - (c2) regulating or forbidding the sale of table margarine not containing the prescribed ingredients:
  - (c3) providing for the inspection in the State of the ingredients used in the manufacture of table margarine sold or intended to be sold in the State:
  - (c4) forbidding the sale of table margarine which does not comply with the regulations as to wholesomeness and freedom from adulteration or the ingredients of which have not been inspected in accordance with the regulations:
- (d) prescribing fees to be paid and forms to be used under this Act:

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- (e) prescribing penalties recoverable summarily and not exceeding one hundred dollars 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.

#### **Application of Act to table margarine**

**25a.** Every provision of this Act relating to—

- (a) the entry and search of any place where table margarine or any fats, oils, or other substance commonly used in the manufacture of table margarine are suspected to be stored, packed, or sold;
- (b) the inspection and obtaining samples of any such table margarine or other substance;
- (c) the inspection and making copies of and taking extracts from any accounts, books, or documents relating to table margarine or any such substance;
- (d) the securing of information as to table margarine or any such substance;
- (e) the sale and having in possession for sale of any table margarine or other such substance;
- (f) the ingredients of table margarine;
- (g) the making of regulations,

shall apply in relation to all table margarine and every such other substance in the State irrespective of whether that table margarine or other substance was or was not manufactured in the State.

#### **Penalty**

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

#### **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.