DAIRY PRODUCE ACT, 1934-1935.

BEING

DAIRY PRODUCE ACT, 1934, No. 2166 OF 1934
[ASSENTED TO 15TH NOVEMBER, 1934.]

AS AMENDED BY

DAIRY PRODUCE ACT AMENDMENT ACT, 1935, No 2209 OF 1935
[ASSENTED TO 24TH OCTOBER, 1935.]

An Act relating to the marketing of dairy produce.

[*Assented to* 15*th November*, 1934.]

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. Cf. U.K., 21 & 22, Geo. 5, c. 42.

1. This Act may be cited as the "Dairy Produce Act, 1934-1935", and shall come into operation on a day to be fixed by proclamation.

Interpretation.

2. In this Act—

"board" means the Dairy Produce Board appointed under this Act :

"dairy produce" means butter and cheese :

"manufacturer" means a person who manufactures for sale or barter any butter or cheese :

Definition of "quota" struck out by 2209, 1935, s. 3.

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"sell" includes barter or exchange and "sale" has a corresponding meaning.

Administration.

Constitution of board.

3. (1) For the purposes of this Act there shall be a board to be known as the Dairy Produce Board.

(2) The board shall consist of three members appointed by the Governor, one of whom shall be nominated by the Governor to be chairman, one of whom shall be a person who in the

s. 1. This Act was proclaimed to commence on 13th December, 1934: *Gazette* 13th December, 1934, p. 1185.

Governor's opinion is suitable to represent the interests of the consumers of dairy produce, and one of whom shall be a person who in the Governor's opinion is suitable to represent the interests of producers of such produce.

4. The board shall be a body corporate and shall have a common seal and be capable in law of suing and being sued.

Incorporation of Board.

5. (1) The first members of the board shall hold office until the thirtieth day of September, nineteen hundred and thirty-five, and thereafter until further appointments are made to the Board under this section.

Term of office of members of board.

Subsec. (1) substituted by 2209, 1935, s. 4.

As early as possible after the thirtieth day of September, nineteen hundred and thirty-five, the Governor shall appoint members of the board to succeed the first members, and the members so appointed shall, subject to this Act, hold office until the thirtieth day of September, nineteen hundred and thirty-seven. Any of the first members of the board shall be eligible for re-appointment under this section.

(2) A member chosen to fill a casual vacancy shall hold office only for the balance of the term of the member in whose place he was appointed.

6. (1) The seat of any member of the board shall become vacant if—

Vacation of seats on the board.

(*a*) he becomes insane or dies, becomes bankrupt or assigns his estate for the benefit of his creditors, or compounds with his creditors for less than twenty shillings in the pound :

(*b*) he is convicted for any indictable offence or any offence punishable by imprisonment :

(*c*) he resigns by notice in writing posted or delivered to the Minister :

(*d*) without leave of the board he absents himself from three consecutive meetings of the board :

(*e*) he is dismissed by the Governor.

(2) The Governor may dismiss any member of the board from his office for dishonesty, misconduct, or incapacity.

7. No act or proceeding of the board shall be invalid on account of—

Validity of acts of the board.

(*a*) any defect in the appointment of any member : or

(*b*) any vacancy in any seat on the board.

Quorum and majority decisions.

8. Any two members of the board shall form a quorum; and all questions arising for decision by the board shall be decided by a majority of the members present at any duly constituted meeting of the board. If the voting on any question is equal the chairman shall have a casting as well as a deliberative vote.

Duties of Board under Commonwealth law.

9. The board may exercise any such powers as are conferred upon it by or under any Act of Parliament of the Commonwealth of Australia relating to dairy produce.

Deputy members of board.

10. (1) If any member of the board is for any reason temporarily unable to carry out his duties as a member the Governor may appoint some person to act as his deputy for the period specified by the Governor.

(2) If the chairman is absent from any meeting of the board the members present may elect one of their number to act as chairman at that meeting.

Salaries.

11. The members of the board shall receive such salaries and allowances as the Governor fixes, and such salaries and allowances shall be costs of the administration of this Act.

Administration of Act.

12. Subject to the control of the Minister, the board shall be charged with the administration of this Act.

Officers and servants.

13. The Board may appoint such inspectors and other officers and servants as are necessary for the due administration of this Act. The board may, with the consent of the Minister controlling any Department of the Public Service, make use of the services of any public servant in that Department on any terms which are agreed upon between the Minister and the board.

Secrecy of information.

14. Any person who communicates any information acquired by him in carrying out his duties under this Act except in accordance with the instructions of the Minister or for the purpose of proceedings in a court of law shall be guilty of an offence, and liable to a penalty not exceeding one hundred pounds.

Annual report.

15. The board shall as soon as possible after the close of each financial year prepare a report of its proceedings during that financial year, and a statement showing its receipts and expenditure during that year, and shall present the report and statement to the Minister. The Minister shall as early as practicable lay the report before Parliament.

Sale of Dairy Produce.

16. (1) The Governor, after consultation with the board, may from time to time determine quotas for butter and cheese respectively; and the Minister shall by notice in the *Gazette* and in two newspapers circulating generally in the State give notice of every quota so determined.

Determination of quotas. Cf. U.K., 20 & 22, Geo. 5, c. 42, s. 1. **Substituted by 2209, 1935, s. 5.**

(2) Every quota shall be expressed as a percentage of butter or cheese manufactured in the State, and the percentage so expressed is hereinafter called "the prescribed percentage".

(3) The Governor shall at the time of determining any quota also determine the period for which it is to operate and the commencing and closing dates of that period shall be set forth in the notice of the quota.

(4) Every quota shall operate for the period set forth in the notice; but if on the closing date of that period another quota has not been determined and notified so as to come into operation immediately after that date, another quota equal to the expiring quota shall be deemed to have been duly determined and notified, and shall operate as from the expiration of the expiring quota for a further period equal to the period of the expiring quota.

17. (1) Any manufacturer who during the period of operation of any quota sells within the State in the course of his intra-State trade or commerce, any butter or cheese manufactured by him in the State (whether before or during that period) in excess of a quantity equal to the prescribed percentage of the butter or cheese manufactured in the State by him during that period shall be guilty of an offence.

Penalty for exceeding quota. **Substituted by 2209, 1935, s. 6.**

(2) The penalty for an offence against this section shall be a fine of not less than four pounds and not more than six pounds for every hundredweight or part of a hundredweight of the butter or cheese sold in excess of the quantity allowed by this section. Notwithstanding any other enactment the court shall not, in any case under this section in which one hundredweight or more of butter or cheese is proved to have been sold in excess of the quantity allowed by this section, reduce the fine below the minimum prescribed by this section.

(3) This section shall not apply to a manufacturer during the period of operation of any quota if, during that period, the average weekly amount of butter or cheese (as the case may be) produced by him for sale does not exceed ten pounds.

Dairy produce made on farm.

18. (1) For the purposes of this Act the occupier of a farm shall be conclusively presumed—

(*a*) to have manufactured for sale all dairy produce manufactured by any member of his family on his farm for sale:

(*b*) to have sold all dairy produce which has been manufactured by any member of his family on his farm and sold, notwithstanding that he did not personally sell it.

(2) In this section "farm" includes any land used for agriculture, dairying, grazing, or other purposes of a like nature: "member of a family" means wife, husband, son, or daughter.

Information as to dairy produce.

Subsec. (1) substituted by 2209, 1935, s. 7.

19. (1) The board, or any person acting under the authority of the board, may for the purposes of the administration or enforcement of this Act require any person to supply to the board or such authorised person any information in relation to dairy produce.

(2) Any person who without reasonable excuse fails to supply any information so asked for within the time specified by the board or person requiring it, or who knowingly gives any false information, shall be guilty of an offence, and liable to a penalty not exceeding fifty pounds.

Inspection of accounts.

20. (1) For the purposes of this Act any member of the board or any inspector may enter any premises and inspect any books, accounts, registers, or documents found in or upon such premises relating to the manufacture of or any transactions in connection with butter or cheese and may take copies thereof.

(2) Any person who obstructs any such person in the exercise of his powers under this section or who, on being requested to do so, does not produce any such books, accounts, registers, or documents in his possession or under his control, shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

Summary proceedings for offences.

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

Consent to prosecutions.

22. No prosecution for any offence against section 17 of this Act shall be instituted without the consent of the Minister given on the recommendation of the board.

Evidentiary provision.

23. The allegation in any complaint for an offence against this Act that any person is a manufacturer shall be *prima facie* evidence of the fact so alleged.

24. The Governor, on the recommendation of the board, may make regulations necessary or convenient for carrying this Act into effect and may by any regulation impose penalties not exceeding fifty pounds for breach of any regulation. Regulations.

25. (1) The board may by notice published in the *Gazette* and in one newspaper, circulating generally in the State, require every manufacturer to pay to the board an equitable contribution towards the cost of administering this Act. The mode of computing the contribution of each manufacturer shall be specified in the notice, and the contributions may be proportionate to the quantity of dairy produce manufactured by each manufacturer. Administrative expenses.

(2) The board may recover the contribution due by any manufacturer as a debt due to the board, by action in any court of competent jurisdiction.

(3) The board shall defray the cost of administering this Act from the money received under this section.

26. This Act shall expire on the thirtieth day of September, nineteen hundred and thirty-seven. Duration of Act. Amended by 2209, 1935, s. 8.

Regulations.

The following regulations were in force under this Act on 22nd March, 1937:—

General Regulations—

Gazette—11th April, 1935, p. 1119.
9th January, 1936, p. 26.