

# DAIRY INDUSTRY ACT, 1928-1973

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## DAIRY INDUSTRY ACT, 1928-1973<sup>1</sup>

being

Dairy Industry Act, 1928, No. 1878 of 1928 [Assented to 7th November, 1928]<sup>2</sup>;

as amended by

Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19th December, 1935];  
 Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8th October, 1936];  
 Dairy Industry Act Amendment Act, 1937, No. 2378 of 1937 [Assented to 15th December, 1937];  
 Margarine Act, 1939, No. 37 of 1939 [Assented to 14th December, 1939];  
 Dairy Industry Act Amendment Act, 1942, No. 31 of 1942 [Assented to 26th November, 1942];  
 Dairy Industry Act Amendment Act, 1957, No. 30 of 1957 [Assented to 7th November, 1957];  
 Dairy Industry Act Amendment Act, 1958, No. 45 of 1958 [Assented to 27th November, 1958];  
 Dairy Industry Act Amendment Act, 1969, No. 32 of 1969 [Assented to 30th October, 1969];  
 Dairy Industry Act Amendment Act, 1972, No. 30 of 1972 [Assented to 13th April, 1972]<sup>3</sup>;

and

Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6th December, 1973].

### **An Act to regulate the dairy industry, and for purposes incidental thereto or consequent thereon.**

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 "Dairy Industry Act, 1928-1973", and shall come into operation on a day to be fixed by proclamation<sup>2</sup>.

Short title and  
commence-  
ment.  
Citation  
amended by 77,  
1973, s. 3 (1)  
(2nd Sched.).

\* \* \* \* \*

S. 2 repealed by  
30, 1957, s. 3.

3. (1) Except as provided in this section, this Act shall apply throughout the whole State.

Application of  
this Act as  
regards dairy  
farms.

Subsec. (1)  
substituted by  
30, 1957,  
s. 4 (1).

(2) This Act shall not apply to any dairy farm—

Subsec. (2)  
substituted by  
30, 1957,  
s. 4 (1).

(a) within the metropolitan area;

(b) in any area declared by the Governor by proclamation to be an area the dairy farms in which shall be exempt from this Act.

(2a) The Governor may by proclamation declare any area defined or indicated in the proclamation to be an area the dairy farms in which shall be exempt from this Act, or from any provisions of this Act specified in the proclamation, and may by proclamation vary or revoke any proclamation in force under this section.

Subsec. (2a)  
inserted by 30,  
1957, s. 4 (1).

<sup>1</sup> The Dairy Industry Act, 1928-1973, has been amended by the Dairy Industry Act Amendment Act, 1974, which, as on 3rd February, 1976, had not come into operation and therefore any amendment made thereby has not been incorporated in this reprint.

<sup>2</sup> Came into operation 8th August, 1929: *Gaz.* 8th August, 1929, p. 329.

<sup>3</sup> Came into operation 1st July, 1973: *Gaz.* 10th May, 1973, p. 1994.

Dairy farms to which any such proclamation applies shall according to the tenor of the proclamation be wholly or partly exempt from this Act.

Subsec. (2b)  
inserted by 30,  
1957, s. 4 (1).

(2b) This Act shall not apply to a dairy farm wherever situate unless milk or cream produced thereon is—

(a) supplied in bulk to a factory milk depot or creamery or milk vendor, whether for wholesale or retail sale; or

(b) used in manufacturing dairy produce.

Subsec. (3)  
amended by  
2293, 1936, s. 4  
(2nd Sched.);  
30, 1957,  
s. 4 (2).

(3) No dairy farm licensed under this Act shall be subject to any regulations made under section 115 of the Health Act, 1935<sup>1</sup>, or to section 27 of the Food and Drugs Act, 1908<sup>2</sup> or to any regulations made under paragraph (11) of section 61 of the Food and Drugs Act, 1908<sup>2</sup>.

Subsec. (4)  
substituted by  
77, 1973, s. 3 (1)  
(2nd Sched.).

(4) In this section “the metropolitan area” means the municipalities of Adelaide, Brighton, Burnside, Campbelltown, Enfield, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Marion, Mitcham, Payneham, Port Adelaide, Prospect, St. Peters, Thebarton, Unley, Walkerville, West Torrens, Woodville and the Garden Suburb<sup>3</sup>, and every other area declared by proclamation to be within or part of the metropolitan area for the purposes of this section.

Interpretation.

4. In this Act, unless inconsistent with the context, or some other meaning is clearly intended—

“animal” means any animal of the kind to which any of the following belong, viz.:—Cow, dog, pig, horse, donkey, goat, or sheep:

“butterfat” means the pure fat of milk:

Def. substituted  
by 30, 1957,  
s. 5 (a).

“creamery” means premises (not being a dairy farm or railway station) where cream is collected for transport elsewhere to a factory for manufacture or where milk is collected and separated into cream for transport to a factory for manufacture:

Def. amended  
by 30, 1957,  
s. 5 (b).

“dairy farm” means any land or premises where cows or goats are milked or kept for the purpose of producing milk either for sale or for preparing any dairy produce for sale, and includes the animals thereon:

“dairy produce” means milk, cream, butter, cheese, concentrated or condensed milk or cream, or any article derived or prepared from milk or cream:

Def. amended  
by 2378, 1937,  
s. 3; 37, 1939,  
s. 2 (2) (a).

“factory” means any premises (not being a dairy farm) where butter, cheese, or concentrated or condensed milk or cream, or any article derived or prepared from milk or cream, is prepared, packed, canned, or manufactured for sale:

“inspector” means inspector appointed under this Act:

“margarine” means any substance made, wholly or partially, from vegetable or animal fats, or a combination of both, with or without other constituents, and sold or used or intended to be sold or used or adapted for use as a substitute for butter:

Def. substituted  
by 32, 1969,  
s. 2.

“milk” means the lacteal fluid product of a cow or goat:

<sup>1</sup> Now Health Act, 1935-1975.

<sup>2</sup> Now Food and Drugs Act, 1908-1972.

<sup>3</sup> By proclamations under the Garden Suburb Act, 1919-1973 (*Gaz.* 27th March, 1975, p. 1262, and *Gaz.* 1st May, 1975, p. 1698) the lands referred to in those proclamations were added to the municipality of the City of Mitcham. See also ss. 24 and 25 of the Garden Suburb Act, 1919, as amended.

"milk depot" means any premises where on any day more than fifty gallons of milk is pasteurized, chilled, treated, or packed for purposes other than manufacture, but does not include a dairy farm where milk is pasteurized, chilled, treated, or packed if all such milk is produced on such dairy farm:

Def. inserted by 31, 1942, s. 3; substituted by 30, 1957, s. 5 (c).

"officer" includes inspector:

"owner" includes occupier or person in charge or apparently in charge, owner's agent or manager, and in the case of a company, the manager, secretary, or other controlling officer thereof:

"package" includes box, case, can, crate, tank, basket, tin, cask, keg, barrel, tub, flask, bottle, jar, dish, drum, capsule, wrapper, or covering of any material or description whatsoever:

"to sell" includes to barter, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, offered, or exposed for sale, and refers only to selling for human consumption, and "sale" and "sold" have a corresponding meaning:

"store" means premises (not being an export establishment registered under the Exports (Dairy Produce) Regulations of the Commonwealth or a factory, dairy farm, milk depot or creamery or part thereof) in which one ton or more of dairy produce is at any time stored or held:

Def. inserted by 30, 1957, s. 5 (d).

"vehicle" includes every description of car, cart, carriage, conveyance, truck, van, wagon, ship, or boat, including railway, tramway, or motor carriages, cars, or trucks.

#### *Administration*

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

Administration by Minister.

6. (1) The Governor may appoint such inspectors and other officers and persons as are necessary for the administration of this Act.

Appointment of inspectors and officers.

(2) One of the inspectors shall be a qualified veterinary surgeon and an expert in veterinary sanitary science and veterinary medicine, and another of the inspectors shall be an expert in the science and practice of dairying and allied branches of agriculture.

(3) The office of inspector may be held in conjunction with any other office in the Public Service.

(4) All persons appointed under this section shall be appointed under and be subject to the provisions of the Public Service Act, 1967<sup>1</sup>.

6a. (1) A person shall not build a factory, creamery, store or milk depot or convert a building into a factory, creamery, store or milk depot, or alter or add to a factory, creamery, store or milk depot unless—

Approval of buildings, alterations, etc. S. 6a enacted by 30, 1957, s. 6.

(a) plans and specifications showing the work proposed to be done or other particulars accepted by the Minister in lieu of plans and specifications have been supplied to the Minister; and

(b) the Minister has approved such plans and specifications or particulars.

(2) The Minister shall not refuse his approval to any such plans, specifications or particulars except on the ground that the buildings to which they

<sup>1</sup> Reference to Public Service Act, 1936 has been altered to Public Service Act, 1967 (now Public Service Act, 1967-1975) pursuant to s. 7 (1) (b) of the Acts Republication Act, 1967, as amended. See also 77, 1967, ss. 5-6.

relate, when built, converted, altered, or added to as proposed will not comply with the regulations.

(3) A person shall not build, alter, or add to a factory, creamery, store or milk depot or convert any building into a factory, creamery, store or milk depot except in accordance with plans and specifications or particulars approved by the Minister.

(4) The Minister may grant a person exemption from the foregoing provisions of this section in relation to any alterations of premises, which in the Minister's opinion are minor alterations.

Heading  
amended by 30,  
1957, s. 7.

*Licensing of Dairy Farms, Factories, Milk Depots, Stores and Creameries*

Licensing.

Subsec. (1)  
amended by 31,  
1942, s. 4; 30,  
1957, s. 8 (1).

7. (1) After the expiration of two months from the time when this Act comes into operation no person shall use or occupy any dairy farm, factory, store, milk depot or creamery unless the same is licensed pursuant to this Act.

Subsec. (2)  
amended by 31,  
1942, s. 4;  
substituted by  
30, 1957,  
s. 8 (2);  
amended by 32,  
1969, s. 3; 30,  
1972, s. 3 (a).

(2) Every application for a licence for a dairy farm, factory, store, milk depot, or creamery—

(a) shall be made in the prescribed form;

(b) shall be addressed to the Chief Dairy Officer;

(c) shall be delivered (either by post or otherwise) to the Chief Dairy Officer or a person authorized by the Chief Dairy Officer to receive applications.

Subsec. (2a)  
inserted by 30,  
1957, s. 8 (2);  
amended by 32,  
1969, s. 3.

(2a) Every application for a licence for a dairy farm may be dealt with by the person to whom it is delivered or by the Chief Dairy Officer. Every application for a licence for premises other than a dairy farm shall be dealt with by the Chief Dairy Officer.

Subject to any direction given by the Minister, under section 8 of this Act, an application duly made in accordance with law and for which the proper fee is paid, shall be granted.

(3) Every licence shall remain in force until the thirtieth day of June next after the issue thereof: Provided that if the holder of a licence about to expire on any thirtieth day of June applies for a fresh licence before that date, and the application is not finally dealt with before that date, his old licence shall remain in force until his application has been dealt with.

Subsec. (4)  
amended by 31,  
1942, s. 4; 30,  
1957, s. 8 (3);  
substituted by  
30, 1972,  
s. 3 (b).

(4) The fee for a licence under this section for a year shall be—

(a) for a dairy farm—\$4.00;

(b) for a factory—\$10.00;

and

(c) for a creamery, store or milk depot—\$4.00.

Subsec. (5)  
amended by 30,  
1957, s. 8 (4);  
struck out by 30,  
1972, s. 3 (c).

\* \* \* \* \*

Subsec. (6)  
struck out by 30,  
1972, s. 3 (c).

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Subsec. (7)  
amended by 30,  
1957, s. 8 (5);  
struck out by 30,  
1972, s. 3 (c).

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Subsec. (8)  
amended by 30,  
1957, s. 8 (6);  
struck out by 30,  
1972, s. 3 (c).

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Subsec. (9)  
struck out by 30,  
1972, s. 3 (c).

(10) A licence issued in respect of a dairy farm, factory, milk depot, store or creamery may be transferred to any person who becomes, by purchase or otherwise, the owner of such dairy farm, factory, milk depot, store or creamery.

Subsec. (10)  
amended by 31,  
1942, s. 4; 30,  
1957, s. 8 (7).

(11) If an applicant for a licence has paid the fee therefor in advance and the licence is refused, the applicant shall have his fee refunded to him.

(12) Any person who has applied for a licence and paid the fee therefor shall, unless and until his fee is refunded to him, be deemed to hold a licence in respect of the premises for which the licence was applied for.

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Subsec. (13)  
inserted by 30,  
1957, s. 8 (8);  
struck out by 30,  
1972, s. 3 (d).

8. (1) If the Minister is satisfied on the report of any inspector that any dairy farm, factory, store, milk depot, or creamery or proposed dairy farm, factory, store, milk depot, or creamery is not suitable or in a fit sanitary condition for use as a dairy farm, factory, store, milk depot, or creamery as the case may be, he may—

Cancellation of  
licences.

Subsec. (1)  
amended by 31,  
1942, s. 5; 30,  
1957, s. 15  
(Sched.).

(a) direct that no licence be issued in respect of that dairy farm, factory, store, milk depot, or creamery; or

Para. (a)  
amended by 31,  
1942, s. 5; 30,  
1957, s. 15  
(Sched.).

(b) cancel or suspend any licence existing in respect of that dairy farm, factory, store, milk depot, or creamery.

Para. (b)  
amended by 31,  
1942, s. 5; 30,  
1957, s. 15  
(Sched.).

\* \* \* \* \*

Subsec. (2)  
struck out by 37,  
1939,  
s. 2 (2) (b).

(3) Any person aggrieved by a decision of the Minister under this section may appeal to a Board of Appeal constituted under this section in the same manner as the Board of Appeal under section 17 is constituted. All the provisions of that section relating to appeals shall apply, *mutatis mutandis*, to appeals under this section.

### *Supervision of Cows*

9. (1) If any inspector is of opinion that the milk of any cow or dairy produce manufactured from the milk of any cow would be deleterious to health or unwholesome, he may—

Prohibition of  
sale of milk  
from and  
branding of  
diseased cows.

(a) by notice given to the owner or person in charge of the cow prohibit the sale of any milk taken from that cow during a period specified in the notice not exceeding two weeks, and the manufacture of any dairy produce from that milk;

(b) cause that cow to be branded with a temporary brand.

(2) When an inspector prohibits the sale of any milk under subsection (1) he shall forthwith notify the Minister of the prohibition. The Minister may confirm, cancel, or modify the prohibition and may reduce or extend the period thereof, or make the prohibition permanent, and shall give notice of his decision to the owner or person in charge of the cow. The Minister shall not

make any prohibition permanent except upon the advice of a qualified veterinary surgeon. If the Minister makes the prohibition permanent he may also order and cause the cow to be branded in such a position as he thinks fit with a permanent brand, consisting of the mark  $\uparrow$  R.

(3) If any person in any particular contravenes any prohibition made by an inspector or the Minister under this section he shall be guilty of an offence against this Act.

(4) If any person without permission of an inspector removes from any dairy farm any cow in respect of which a prohibition under this section is for the time being in force, he shall be guilty of an offence against this Act.

Power to ascertain if cows likely to yield unwholesome milk.

10. (1) Any inspector may use any means which are prescribed for the purpose of ascertaining whether any cow is in such a condition as to be likely to yield milk which is deleterious to health or unwholesome.

(2) An inspector who is not a qualified veterinary surgeon shall not use any method of diagnosis involving injection, aspiration, harpooning, or any similar process except by or under the direction of a qualified veterinary surgeon.

#### *Supervision of Dairy Farms and Factories*

Powers of inspection.

11. Subject to this Act, any inspector may at all reasonable times—

(a) enter any premises, place, or vehicle for the purpose of making any inspection authorized by this Act:

Para. (b) amended by 31, 1942, s. 6; 30, 1957, s. 15 (Sched.).

(b) inspect any dairy farm, factory, store, milk depot, creamery, or vehicle and any animals, dairy produce, and utensils used in connection with dairy produce, wherever situate:

Para. (c) amended by 37, 1939, s. 2 (2) (c).

(c) take samples of any dairy produce or of the water or fodder supplied to animals at any dairy farm or factory, or of any materials used in connection with the preparation of any dairy produce:

Para. (d) amended by 37, 1939, s. 2 (2) (c); 31, 1942, s. 6; 30, 1957, s. 15 (Sched.); 30, 1972, s. 4.

(d) open at any dairy farm, factory, store, milk depot, creamery, or at any railway or tramway station or premises, or at any airport or seaport, or in any vehicle, any package which contains or which the inspector suspects to contain any dairy produce, and take samples of the same. For the samples reasonable remuneration shall be offered.

Power to require dairy farms and apparatus to be cleaned.  
S. 12 amended by 31, 1942, s. 7; 30, 1957, s. 15 (Sched.).

12. If any inspector is satisfied that any dairy farm, factory, store, milk depot, creamery, or any vehicle used for conveying dairy produce, or any utensil, machinery, apparatus, or work at any dairy farm, factory, store, milk depot, or creamery is in an unclean or unwholesome condition, he may order the same to be forthwith cleansed, disinfected, and rendered wholesome to his satisfaction, and may forbid the removal from such dairy farm, factory, store, milk depot, or creamery of any dairy produce or utensils for such time as he thinks fit.

Power of inspector as to water.  
S. 13 amended by 30, 1957, s. 15 (Sched.); 30, 1972, s. 5.

13. If any inspector, after analysis, is satisfied that any water used in connection with a dairy farm, factory, store, milk depot or creamery is unwholesome, he may order the supply of water to be discontinued and a supply of wholesome water to be provided.

Power of inspector as to scales, measures, and apparatus.

14. If any inspector is satisfied that any chemical or any scales, measures, or apparatus used in testing cream or milk do not conform to the prescribed standard, or are incorrect, or are otherwise unfit for the purposes for which

they are intended to be used, he may order that such chemical be made fit for the purpose for which it is to be used or that such scales, measures, or apparatus be replaced or corrected.

15. (1) If any inspector is satisfied that—

Seizure of dairy produce.

- (a) any dairy produce inspected by him is unfit for human consumption; or
- (b) is being or has been removed, sold, or delivered contrary to any order or prohibition under this Act, or to any provision of this Act,

he may seize the same, or order that the same be held in such place as he directs.

(2) Any dairy produce which has been seized under this section shall be forthwith placed in a cool chamber if one is available and kept therein at as low a temperature as practicable pending the decision of any legal or other proceedings relating to such dairy produce.

(3) Every inspector shall, as soon as practicable, make a report to the Minister of all seizures or orders made by him under this Act.

(4) Any person who sells or removes any dairy produce seized by an inspector under this section, or any dairy produce ordered to be held in any place directed by an inspector under this section, shall be guilty of an offence against this Act.

16. (1) The Governor may on the application of the council of any municipality or district by proclamation declare that any area within that municipality or district shall be an area within which no person shall keep, graze, or milk cows for the purpose of selling dairy produce derived from those cows. The Governor may also vary or revoke any such proclamation.

Power to prohibit cow-keeping in certain areas.

(2) Any person who keeps, grazes, or milks any cows for the said purpose within any area which, according to the tenor of any proclamation for the time being in force under this section is an area within which no person shall keep, graze, or milk cows, shall be guilty of an offence against this Act.

### *Appeals*

17. (1) Any person aggrieved by any order or notice given by an inspector under section 12, 13, or 14 of this Act may, within fourteen days from the making of such order or giving of such notice, appeal therefrom to a Board of Appeal constituted or to be constituted under this section.

Appeals against orders of inspectors.

(2) Every such appeal shall be made in accordance with the regulations and notice thereof shall be served on such persons as are prescribed.

(3) For the purpose of hearing any appeal or group of appeals under this section the Governor may appoint a Board of Appeal consisting of five persons. Two of such persons shall be nominated by the appellant, and shall be persons actively engaged in the dairy industry, another shall be a member of the Central Board of Health, being a legally qualified medical practitioner, and the remaining two persons, one of whom shall be actively engaged in the branch of the dairying industry under appeal, shall be nominated by the Minister of Agriculture.

(4) A Board of Appeal shall hear the appeal as prescribed, and for that purpose shall have all such powers as are prescribed.



(5) A Board of Appeal may confirm, annul, or vary any order or notice appealed against, and its decision shall be final.

*Provisions as to Sale and Manufacture of Dairy Produce*

Prohibition on sale or supply of seized or unsound dairy produce.

18. Except as in this Act otherwise provided, no person shall sell—

Para. (b) amended by 2246, 1935, s. 4 (2nd Sched.).

(a) any dairy produce which is unfit for human consumption:

(b) any dairy produce which has been drawn or derived from a cow that is known to or suspected by such person to be suffering from a disease within the meaning of that term as defined by or under the Stock and Poultry Diseases Act, 1934<sup>1</sup>, or any Act substituted for or amending that Act:

Para. (c) amended by 2246, 1935, s. 4 (2nd Sched.).

(c) any dairy produce from any dairy farm on which any animal required by the Stock and Poultry Diseases Act, 1934<sup>1</sup>, or any Act substituted for or amending that Act, to be quarantined is not quarantined.

Payment for milk and cream.

Subsec. (1) substituted by 31, 1942, s. 8; 30, 1957, s. 9; amended by 32, 1969, s. 4 (a).

19. (1) Every owner of a factory, milk depot or creamery and every wholesale distributor of milk or cream to whom milk or cream is sold or supplied by two or more producers thereof shall—

(a) grade that milk or cream in accordance with the principles and in the manner prescribed by the regulations; and

(b) test and weigh that milk or cream and ascertain the percentage and weight of the butterfat therein by the Babcock test or any other test prescribed by the regulations to be used in place of the Babcock test; and

(c) keep records in the prescribed form showing the grades, weight, and butterfat content of all such milk and cream.

The seller or supplier of the milk or cream or any person authorized in writing by him or any inspector may be present at and inspect the grading, testing and weighing, and may examine and check any records of such grading, testing and weighing.

Subsec. (2) substituted by 30, 1957, s. 9; amended by 32, 1969, s. 4 (b).

(2) Every owner of a factory milk depot or creamery and every wholesale distributor of milk to whom milk or cream is sold or supplied by two or more producers thereof shall pay the seller or supplier for the milk or cream according to—

(a) the grade of the milk or cream ascertained in accordance with the principles and in the manner prescribed by regulation; and

(b) the weight of the butterfat contained therein estimated by what is known as the Babcock test or by any other test prescribed by regulation to be used in place of that test.

Subsec. (3) substituted by 31, 1942, s. 8; 30, 1957, s. 9; amended by 32, 1969, s. 4 (c).

(3) If the weight of the butter manufactured in any prescribed period at a factory to which milk or cream is sold or supplied by two or more producers thereof exceeds the weight (as estimated under subsection (2) of this section) of the butterfat used in such manufacture by more than twenty-two per cent, the persons who sold or supplied such butterfat to the owner of the factory shall be entitled to be paid in addition to the price of the butterfat supplied by them a sum representing the value of the amount of butterfat corresponding to the amount of the excess butter mentioned above, and such sum shall be

<sup>1</sup> Now Stock Diseases Act, 1934-1975.

divided among them in proportion to the respective amounts of the payments made to them for the butterfat supplied.

(4) A person who prevents any person from exercising a right of inspection or examination or checking given by subsection (3) of this section or who obstructs any person in the exercise of any such right shall be guilty of an offence.

Subsec. (4)  
inserted by 31,  
1942, s. 8.

20. Where milk or cream supplied to a factory, creamery or milk depot is manifestly affected by putrefactive decomposition or is for any reason unfit for human consumption the owner of the factory, creamery or milk depot—

Treatment of  
unsound cream.  
S. 20 substituted  
by 30, 1957,  
s. 10.

(a) shall not manufacture dairy produce from that milk or cream;

(b) shall not retain it in the factory creamery or milk depot; and

(c) shall cause it to be treated and disposed of in accordance with the regulations.

21. (1) \* \* \* \* \*

Grading butter  
etc.  
Subsec. (1)  
amended by 31,  
1942, s. 9;  
struck out by 30,  
1957, s. 11 (a).

(2) Every owner of a factory shall grade, or cause to be graded, all butter manufactured at the factory, according to quality, and in accordance with the regulations, and shall cause every package into which such butter is packed at the factory to be marked with some words, or words and figures, correctly signifying to which of the prescribed grades the butter belongs.

(3) Every owner of a cheese factory shall cause all cheese manufactured at the factory to be marked with such marks and in such manner and place as are prescribed by regulations.

Subsec. (3)  
inserted by 30,  
1957, s. 11 (b).

22. (1) No person shall manufacture butter in premises in which margarine is manufactured, nor in premises any part of which is within one hundred yards from premises in which margarine is manufactured.

Restrictions on  
manufacturing  
butter in or near  
margarine  
factory.

(2) Any person contravening this section in any respect shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars<sup>1</sup>.

22a. (1) A person shall not manufacture or sell any liquid being a colourable imitation of milk and containing substances not derived from the lacteal secretion of the cow or goat.

Colourable  
imitations of  
milk.  
S. 22a enacted  
by 45, 1958,  
s. 3.  
Subsec. (1)  
amended by 32,  
1969, s. 5.

(2) In a prosecution for an offence against this section it shall not be necessary for the prosecution to prove any intention to deceive or other form of guilty knowledge and where the offence charged is a sale it shall be no defence that the defendant informed the purchaser of the true nature of the substance.

23. (1) Every owner of a factory shall keep or cause to be kept such books of account and other records relating to the manufacture of dairy produce at the factory, and the purchases and sales of dairy produce in connection with such manufacture as are prescribed.

Duty of owners  
of factories.

(2) Any inspector may at any reasonable time enter any factory and require the owner or any person in charge of any such books of account or records to produce them to him for inspection, and may examine the said books of account and records.

<sup>1</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

(3) Any person who, being the owner of a factory or the person in charge of any books of account or records thereat, neglects or refuses to produce them, or any of them, for inspection when required by an inspector, shall be guilty of an offence against this Act.

(4) The owner of every factory shall prepare and forward to the prescribed officer of the Department of Agriculture<sup>1</sup> such periodical returns as are prescribed.

(5) An inspector shall not communicate any information acquired by him from any books and records inspected by him under this section, except in accordance with the instructions of the Minister, or for the purpose of proceedings in a court of law.

#### *Qualifications of Persons Testing and Grading Cream*

Qualifications of persons testing and grading cream. S. 24 amended by 31, 1942, s. 10 (a), (b); substituted by 30, 1957, s. 12.

24. (1) No person shall test or grade milk or cream for the purpose of complying with any requirement of this Act unless he holds a tester's certificate or a grader's certificate, as the case may be.

(2) The Minister may issue a tester's certificate or a grader's certificate to any person who complies with the conditions prescribed by regulation for the issue of such certificate.

(3) The Minister may from time to time if he thinks that reasonable cause exists for doing so, exempt any person from the duty to comply with this section for a period not exceeding six months at any one time.

Heading inserted by 30, 1957, s. 13.

#### *Buttermakers and Cheesemakers*

Certification of buttermakers and cheesemakers. S. 24a enacted by 30, 1957, s. 13.

24a. The Minister may issue a buttermaker's or a cheesemaker's certificate to any person who complies with the conditions prescribed by regulations for the issue of such certificate.

#### *Offences, Regulations, and Financial Provisions*

Offences.

25. (1) Every person shall be guilty of an offence against this Act, punishable summarily, who—

- (a) contravenes or fails to comply with or fails to observe any provision of this Act, which contravention or failure is not otherwise expressly created an offence; or
- (b) furnishes any return or information which such person is empowered or required by this Act to furnish, and which is not to the best of his knowledge and belief true and correct in all particulars; or
- (c) replies falsely to any inspector in reply to inquiries which such inspector deems it necessary to make in carrying out the provisions of this Act, or refuses to render reasonable assistance required of him under this Act; or
- (d) hinders or molests any inspector in the execution of his duties under this Act; or
- (e) removes from a dairy farm any animal for the purpose of preventing examination of such animal by an inspector, or who fails to produce or submit for examination when required by any inspector any animal intended for the production of any dairy produce for sale; or

<sup>1</sup> For interpretation of reference to Department of Agriculture see proclamation under Public Service Act, 1967-1975: *Gaz.* 6th November, 1975, p. 2340.

- (f) fails in any particular to comply with or contravenes any notice, order, or prohibition made pursuant to this Act by the Minister or any inspector.

(2) Every person who is guilty of an offence against this Act shall, except where a different penalty is mentioned in any section or regulation, be liable to a penalty of not more than one hundred dollars<sup>1</sup> for a first offence and not more than two hundred dollars<sup>1</sup> for any subsequent offence.

Subsec. (2)  
amended by 30,  
1957, s. 14.

26. (1) In every case where any person is charged with selling any dairy produce contrary to the provisions of this Act, any dairy produce shown to have been sold shall be deemed to have been sold for human consumption, unless the defendant satisfies the Court to the contrary.

Onus of proof.

(2) In any proceedings for an offence against this Act, the allegation in the complaint—

- (a) that any premises are a dairy farm, factory, store, milk depot or creamery within the meaning of this Act:

Para. (a)  
amended by 31,  
1942, s. 11; 30,  
1957, s. 15  
(Sched.).

- (b) that any dairy farm is situated outside the Metropolitan Area,

shall be *prima facie* evidence of the fact so alleged.

(3) If any proclamation is made declaring that this Act or any part thereof does not apply to any part of the State it shall lie on the defendant to prove that any premises in respect of which any offence against this Act is alleged to have been committed are within that part of the State.

27. (1) Where the owner of a dairy farm, factory, store, milk depot or creamery is charged with an offence against any of the provisions of this Act he shall be entitled upon complaint duly laid by him to have any other person whom he charges as the actual offender brought before the court at the hearing of the charge; and if after the commission of the offence has been proved the owner proves to the satisfaction of the court—

Exemption of  
employer from  
penalty in  
certain cases.

Subsec. (1)  
amended by 31,  
1942, s. 12; 30,  
1957, s. 15  
(Sched.).

- (a) that he had used due diligence to enforce the execution of this Act;  
and

- (b) that the said other person had committed the offence in question without his knowledge, consent, or connivance,

the said other person shall be summarily convicted of such offence, and the said owner shall be exempt from any penalty. The person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(2) Except as mentioned in subsection (1) of this section, lack of guilty knowledge shall not be a defence in proceedings for offences under this Act.

(3) Where it is made to appear to the satisfaction of the inspector or any member of the Police Force at the time of discovering an offence—

- (a) that the owner has used all due diligence to enforce the execution of this Act; and

- (b) by what person the offence has been committed; and

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency have been substituted for references to amounts of money expressed in the old currency.

(c) that it has been committed without the knowledge, consent, or connivance of the said owner and in contravention of his orders, the said inspector or member of the Police Force shall proceed against the person whom he believes to be the actual offender without first proceeding against the said owner.

Dairy Cattle Improvement Fund.  
S. 27a enacted by 30, 1972, s. 6.

**27a. All moneys received or collected under this Act—**

(a) for or on account of fees or charges;

and

(b) for or on account of penalties imposed for offences against this Act, shall be paid to the Treasurer, to be paid by him to the credit of the Dairy Cattle Fund constituted under the Dairy Cattle Improvement Act, 1921, as amended<sup>1</sup>.

Power to make regulations.

**28. (1) The Governor may make regulations for all or any of the following purposes:—**

(1) Prescribing the particulars to be set out in the form of application for licences under this Act, and all matters incidental to applications for and the granting of licences and the payment of fees therefor:

Para. (2) amended by 31, 1942, s. 13; 30, 1957, s. 15 (Sched.).

(2) Prescribing the measures to be taken from time to time for keeping dairy farms, factories, stores, milk depots, creameries, and utensils, machinery appliances, and vehicles used at dairy farms, factories, milk depots, stores or creameries, clean and sanitary, and for disinfecting dairy farms, factories, milk depots, stores and creameries:

(3) Prohibiting the keeping of any prescribed animals within any prescribed distance from a milking shed:

Para. (4) amended by 30, 1957, s. 15 (Sched.).

(4) Prescribing requirements to be observed in constructing, altering, extending, or adding to buildings and premises used or intended to be used as a dairy farm, factory, milk depot, store or creamery:

Para. (4a) inserted by 30, 1972, s. 7 (a).

(4a) Prescribing requirements to be observed in the construction, provision and location of equipment and utensils used in connection with the carriage or storage of dairy produce in or about any dairy farm, factory, milk depot, store or creamery:

(5) Prohibiting the housing, keeping, and milking of cows within the prescribed distance of any place where any prescribed trade, business, or occupation is carried on:

Para. (6) amended by 2246, 1935, s. 4 (2nd Sched.).

(6) Prescribing the mode in which the products and discharges of any animals infected with a disease within the meaning of that term as used in the Stock and Poultry Diseases Act, 1934<sup>2</sup>, or any Act substituted for or amending that Act, shall be dealt with, and the conditions and restrictions under which any milk from such animals may be sold or used or disposed of:

(7) Prescribing the means that may be used for diagnosis and discovery of disease in animals, and the manner in which the temporary branding of cows, as provided for in this Act, shall be effected, and the methods by which identification of the ownership of dairy produce shall be established:

<sup>1</sup> Now Dairy Cattle Improvement Act, 1921-1972.

<sup>2</sup> Now Stock Diseases Act, 1934-1975.

- (8) Prescribing rules to be observed in order to ensure that only wholesome milk, cream, and other ingredients shall be used by factories, milk depots or creameries: Para. (8) amended by 30, 1957, s. 15 (Sched.).
- (9) Prescribing as regards milk or cream supplied to factories, milk depots and creameries— Para. (9) amended by 30, 1957, s. 15 (Sched.).
- (a) composition,
  - (b) physical condition, including degree of freedom from foreign matter,
  - (c) acidity,
  - (d) specific gravity,
  - (e) bacterial content and mould growth,
- and forbidding the use in the manufacture of dairy produce of any such milk or cream not complying with the requirements prescribed:
- (10) Prescribing the conditions under which milk or cream which has been cooled, aerated, skimmed, heated, boiled, sterilized, centrifuged, pasteurized, frozen, condensed, concentrated, desiccated, dried, or otherwise treated may be used in the manufacture of dairy produce, and the conditions under which beestings or any product prepared from beestings may be sold: Para. (10) amended by 30, 1957, s. 15 (Sched.).
- (11) Prescribing the means to be adopted for preventing alteration, infection, contamination, and deterioration or any of these changes of any dairy produce and for preventing growth of bacteria and other organisms in dairy produce: Para. (11) amended by 30, 1957, s. 15 (Sched.).
- (12) Prohibiting the use in the manufacture of dairy produce of any milk or cream from any cow which is habitually depastured on or has unrestricted access to any street within any prescribed area: Para. (12) amended by 30, 1957, s. 15 (Sched.).
- (13) Prescribing the maximum percentage of lactic acid and the maximum and minimum percentage of butterfat to be contained in any cream delivered for the manufacture of butter at a factory:
- (14) Prescribing the qualifications to be possessed and any examinations to be passed by any person employed to test milk or cream or to grade milk or cream or by the holder of a buttermaker's or cheesemaker's certificate, and providing for the issue, renewal, and cancellation of certificates to such persons: Para. (14) amended by 30, 1957, s. 15 (Sched.).
- (15) Prescribing the test for estimating the butterfat contents of any milk or cream, or the manner of estimating the amount of butter obtainable from any milk or cream, or the butter equivalent of any butterfat, and fixing the ratios or differences between the prices to be paid to suppliers of milk or cream for the various grades of milk and cream supplied to a factory, milk depot or creamery: Para. (15) amended by 30, 1957, s. 15 (Sched.).
- (16) Prescribing the standards and constituents of dairy produce and forbidding the sale or use in manufacture of any dairy produce not complying with the requirements so prescribed:
- (17) Prescribing the standard size and measurements of all apparatus used for measuring and testing any specified dairy produce, and of the chemicals which may be used for testing any specified dairy produce:

(18) Prescribing the methods by which dairy produce that has been seized may be treated, destroyed, or disposed of:

(19) Prohibiting the sale of butter containing any preservative other than such preservatives as are prescribed, or any preservative in excess of the prescribed quantity, or prohibiting the sale of butter containing any preservative at all:

(20) Regulating the size of cream cans or milk cans:

Para. (21)  
amended by 30,  
1957, s. 15  
(Sched.).

(21) Providing for the registration, renewal of registration, and cancellation of registration of brands or marks to be used on packages of butter or on cheese:

Para. (22)  
amended by 30,  
1957, s. 15  
(Sched.).

(22) Prescribing the books of account and other records to be kept in respect of any factory, creamery, milk depot, or store and requiring such books to be duly and properly kept:

(23) Prescribing penalties for breach of any regulations:

(24) Prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which appear to him to be necessary or convenient to be prescribed, for the purpose of more effectually carrying out any of the provisions of this Act or for better effecting the objects of this Act.

Subsec. (1a)  
inserted by 30,  
1972, s. 7 (b).

(1a) Where in any regulation a reference is made to a standard set by the Standards Association of Australia applicable to a matter that reference may be expressed to relate to any variations of or substitutions for that standard that, after the making of the regulation, may become applicable to that matter.

(2) The Governor may under this section make different regulations to apply in different localities, and different regulations to apply at different periods of the year, and any regulations under this section may be otherwise limited or may discriminate in their operation according to time, place, and circumstance.

Notices and  
demands, how  
served.

**29.** The following provisions shall apply as to every notice required by this Act to be given to any person:—

(1) Such notice shall be addressed to such person:

(2) Such notice shall be deemed duly served if the same has been—

(a) given to such person personally;

(b) left at his usual or last known place of abode; or

(c) sent to that place by post by prepaid letter.

Financial  
provision.

**30.** The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.