

SOUTH AUSTRALIA

DAIRY INDUSTRY ACT, 1928

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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LEGISLATIVE HISTORY

DAIRY INDUSTRY ACT, 1928

being

Dairy Industry Act, 1928, No. 1878 of 1928
[Assented to 7 November 1928]¹

as amended by

Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19 December 1935]
Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8 October 1936]
Dairy Industry Act Amendment Act, 1937, No. 2378 of 1937 [Assented to 15 December 1937]
Margarine Act, 1939, No. 37 of 1939 [Assented to 14 December 1939]
Dairy Industry Act Amendment Act, 1942, No. 31 of 1942 [Assented to 26 November 1942]
Dairy Industry Act Amendment Act, 1957, No. 30 of 1957 [Assented to 7 November 1957]
Dairy Industry Act Amendment Act, 1958, No. 45 of 1958 [Assented to 27 November 1958]
Dairy Industry Act Amendment Act, 1969, No. 32 of 1969 [Assented to 30 October 1969]
Dairy Industry Act Amendment Act, 1972, No. 30 of 1972 [Assented to 13 April 1972]²
Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6 December 1973]
Dairy Industry Act Amendment Act, 1974, No. 113 of 1974 [Assented to 5 December 1974]³
Dairy Industry Act Amendment Act, 1982, No. 59 of 1982 [Assented to 1 July 1982]⁴
Dairy Industry Act Amendment Act, 1986, No. 85 of 1986 [Assented to 4 December 1986]⁵

¹ Came into operation 8 August 1929: *Gaz.* 8 August 1929, p. 329.

² Came into operation 1 July 1973: *Gaz.* 10 May 1973, p. 1994.

³ Came into operation 12 February 1976: *Gaz.* 12 February 1976, p. 611.

⁴ Came into operation 26 March 1987: *Gaz.* 26 March 1987, p. 702.

⁵ Came into operation 1 January 1987: *Gaz.* 18 December 1986, p. 1877.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

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:

Short title and commencement

1. This Act may be cited as the *Dairy Industry Act, 1928*, and shall come into operation on a day to be fixed by proclamation.

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Application of this Act to dairy farms

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

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

- (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.

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

(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.

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

(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 and Woodville, 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—

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"butterfat" means the pure fat of milk:

"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:

"dairy blend" means a product obtained by mixing milk fat in the form of cream, edible vegetable oil or oils, salt and water where the resultant mixture is a solid or semi-solid emulsion and where the product—

- (a) contains not less than 12 per centum and not more than 20 per centum, by weight, of vegetable oil or oils, in its total weight;
- (b) contains not more than 16 per centum of water by weight and not more than 4 per centum of salt by weight in its total weight;
- (c) contains—
 - (i) vitamin A in an amount equivalent to not less than 240 microgrammes of retinol activity per 28 grammes of the product;and
 - (ii) vitamin D in an amount equivalent to not less than 1.5 microgrammes of cholecalciferol per 28 grammes of the product;and
- (d) has a spreadability of not more than 75 Newtons and not less than 45 Newtons at 5°C based on the method of determining spreadability of Kruisheer and den Herder,

notwithstanding that the product also contains skim milk, antioxidants, mono-glycerides or diglycerides of fat forming fatty acids, flavouring or harmless vegetable colouring:

"dairy farm" means any land or premises where animals are milked or kept for the purpose of producing milk for sale or for preparing dairy produce for sale:

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

"factory" means any premises (not being a dairy farm) where butter, dairy blend, 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:

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"milk" includes the milk of any animal:

"milk depot" means any premises where on any day more than 228 litres 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:

"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 tonne or more of dairy produce is at any time stored or held:

"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

Administration by Minister

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

Appointment of inspectors and officers

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

(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*.

Approval of buildings, alterations, etc.

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—

- (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 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.

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

Licensing

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.

- (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.

(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 or 8a, 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.

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(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.

(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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Cancellation of licences

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—

- (a) direct that no licence be issued in respect of that dairy farm, factory, store, milk depot, or creamery; or
- (b) cancel or suspend any licence existing in respect of that dairy farm, factory, store, milk depot, or creamery.

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(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.

Minister may direct that no further dairy farm licences be issued in certain circumstances

8a. (1) Where the Minister, after consulting with the Dairy Industry Advisory Committee, is of the opinion that the establishment of further dairy farms would result in lower returns to dairy farmers thus rendering dairy farming uneconomic, the Minister may direct that no further licences be issued for dairy farms.

7.

(2) A direction under subsection (1) shall not affect—

- (a) an application for a fresh licence for a dairy farm in respect of which a licence was current at the time of the making of the application;
 - (b) an application for the transfer of a licence for a dairy farm from one person to another;
- or
- (c) an application by a person who holds a licence for a dairy farm and who wishes to surrender the licence in respect of that farm and obtain a licence in respect of another.

(3) The Minister may, after consulting with the Dairy Industry Advisory Committee, revoke a direction under subsection (1).

(4) No direction shall be made under subsection (1) on or after 30 June, 1988, and all directions made under that subsection shall expire on that date.

Establishment of the Dairy Industry Advisory Committee

8b. (1) There shall be a committee entitled the "Dairy Industry Advisory Committee".

(2) The committee shall consist of four members appointed by the Minister of whom—

- (a) at least one must be a member of the South Australian Dairyfarmers Association Incorporated;
- (b) at least one must be a member of the South Eastern Dairymen's Association of South Australia Incorporated;
- (c) at least one must be a member of the United Farmers and Stockowners of South Australia Incorporated.

(3) A member of the committee shall be appointed for a term of office, not exceeding 2 years, specified in the instrument of appointment.

(4) The terms and conditions of appointment of the members will be as determined by the Minister.

(5) The Minister shall appoint one of the members to preside at meetings of the committee.

(6) The committee shall advise the Minister in relation to any direction proposed to be made by the Minister under section 8a of this Act or section 32 of the *Metropolitan Milk Supply Act, 1946*.

*Supervision of Animals***Prohibition of sale of milk from diseased animals, etc.**

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

- (a) by notice given to the owner or person in charge of the animal prohibit the sale of any milk taken from that animal during a period specified in the notice not exceeding two weeks, and the manufacture of any dairy produce from that milk:
- (b) cause that animal 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 animal. 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 animal to be branded in such a position as he thinks fit with a permanent brand, consisting of the mark ¶ 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 animal 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 whether animal diseased, etc.

10. (1) Any inspector may use any means which are prescribed for the purpose of ascertaining whether any animal 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:
- (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:
- (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:

- (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

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

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.

Seizure of dairy produce

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

- (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.

Power to prohibit keeping of animals with a view to commercial production of dairy produce

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 animals of a specified class with a view to selling dairy produce derived from those animals. The Governor may also vary or revoke any such proclamation.

(2) A person who keeps, grazes or milks animals in contravention of a proclamation in force under this section shall be guilty of an offence against this Act.

Appeals

Appeals against orders of inspectors

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.

(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 of the sale of certain dairy produce

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

- (a) any dairy produce which is unfit for human consumption:
- (b) any dairy produce which has been drawn or derived from an animal 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 Diseases Act, 1934*, or any Act substituted for or amending that Act:
- (c) any dairy produce from any dairy farm on which any animal required by the *Stock Diseases Act, 1934*, or any Act substituted for or amending that Act, to be quarantined is not quarantined.

Payment for milk and cream

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) test and grade the milk or cream in accordance with the regulations;

and

(b) keep records in the prescribed form in relation to—

(i) the weight or volume of the milk or cream and its grade;

and

(ii) the results of tests made under paragraph (a).

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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.

(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 or any other prescribed constituent of the milk or cream determined or estimated in accordance with the regulations.

(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 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 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 this section or who obstructs any person in the exercise of any such right shall be guilty of an offence.

Treatment of unsound cream

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—

(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.

Grading butter, etc.

21. (1) * * * * *

(2) Every owner of a factory shall grade, or cause to be graded, all butter or dairy blend manufactured at the factory, according to quality, and in accordance with the regulations, and shall cause every package into which such butter or dairy blend 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 or dairy blend 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.

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Colourable imitation of milk

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 an animal.

(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.

Duty of owners of factories

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.

(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.

(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 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 Milk and Cream

Qualifications of persons testing and grading cream

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.

Certificates and other Awards

Issue of certificates and awards

24a. The Minister may issue a certificate or award for which provision is made by the regulations to any person who complies with the conditions prescribed by the regulations for the issue of the relevant certificate or award.

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
- (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 for a first offence and not more than two hundred dollars for any subsequent offence.

Onus of proof

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.

(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:

(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.

Exemption of employer from penalty in certain cases

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—

(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

- (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.

The Dairy Industry Fund

27a. (1) There shall be a fund at the Treasury entitled the "Dairy Industry Fund".

(2) The fund shall consist of—

(a) all moneys that stood to the credit of the Dairy Cattle Fund immediately before the commencement of this Act;

(b) all fees and charges recovered under this Act;

and

(c) all moneys recovered by way of penalties for offences against this Act.

(3) The Minister may apply the moneys standing to the credit of the fund—

(a) towards the costs of administering this Act;

and

(b) otherwise for the benefit of the dairy industry.

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 fixing, and providing for the payment of, fees for licences:

(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:

(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:

(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 animals within the prescribed distance of any place where any prescribed trade, business, or occupation is carried on:
- (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 Diseases Act, 1934*, 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 animals, as provided for in this Act, shall be effected, and the methods by which identification of the ownership of dairy produce shall be established:
- (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:
- (9) Prescribing as regards milk or cream supplied to factories, milk depots and creameries—
 - (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:
- (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:
- (12) Prohibiting the use in the manufacture of dairy produce of any milk or cream from any animal which is habitually depastured on or has unrestricted access to any street within any prescribed area:
- (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, and providing for the issue, renewal, and cancellation of certificates to such persons:
- (15) Providing for the testing, weighing, measuring and grading of milk and cream, or of components of milk or cream, and fixing ratios or differences between prices to be paid to suppliers of milk or cream for the various grades of milk or cream supplied to a factory, milk depot or creamery;
- (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:

* * * * *

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

(1a) Where reference is made in a regulation to—

(a) a standard set by the Standards Association of Australia, or by the Minister;

or

(b) a Code of Practice determined or approved by the Minister,

that reference shall, unless the contrary intention appears, be read as a reference to the standard or the Code as in force from time to time.

(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.

APPENDIX

Legislative History

The Dairy Industry Act Amendment Act, 1982, repealed the following Acts:

Dairy Cattle Improvement Act, 1921-1972

Dairy Produce Act, 1934-1974

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The General Public Acts of South Australia 1837-1975 at page 402.

Section 3(4):	amended by 59, 1982, s. 3
Section 4:	definition of "animal" repealed by 59, 1982, s. 4(a) definition of "dairy blend" inserted by 113, 1974, s. 3(a) definition of "dairy farm" substituted by 59, 1982, s. 4(b) definition of "dairy produce" amended by 113, 1974, s. 3(b) definition of "factory" amended by 113, 1974, s. 3(c) definition of "margarine" amended by 113, 1974, s. 3(d); repealed by 59, 1982, s. 4(c) definition of "milk" substituted by 59, 1982, s. 4(d) definition of "milk depot" amended by 113, 1974, s. 3(e) definition of "store" amended by 113, 1974, s. 3(f)
Section 7(2a):	amended by 85, 1986, s. 3
Section 7(4):	repealed by 59, 1982, s. 5
Sections 8a and 8b:	inserted by 85, 1986, s. 4
Heading preceding section 9:	amended by 59, 1982, s. 6
Section 9(1), (2) and (4):	amended by 59, 1982, s. 7
Section 10(1):	amended by 59, 1982, s. 8
Section 16(1):	amended by 59, 1982, s. 9(a)
Section 16(2):	substituted by 59, 1982, s. 9(b)
Section 18:	amended by 59, 1982, s. 10
Section 19(1):	amended by 59, 1982, s. 11(a)
Section 19(1)(c):	repealed by 59, 1982, s. 11(a)
Section 19(2):	amended by 59, 1982, s. 11(b)
Section 19(3):	amended by 59, 1982, s. 11(c)
Section 19(4):	amended by 59, 1982, s. 11(d)
Section 21(2):	amended by 113, 1974, s. 4
Section 22:	amended by 113, 1974, s. 5; repealed by 59, 1982, s. 12
Section 22a(1):	amended by 59, 1982, s. 13
Heading preceding section 24:	amended by 59, 1982, s. 14
Section 24a and heading:	substituted by 59, 1982, s. 15
Section 27a:	substituted by 59, 1982, s. 16
Section 28(1):	amended by 113, 1974, s. 6; 59, 1982, s. 17(a)-(g)
Section 28(1)(19):	repealed by 59, 1982, s. 17(h)
Section 28(1a):	substituted by 59, 1982, s. 17(i)