

DAIRY INDUSTRY.

3° and 4° GEO. VI., No. XXVII.

No. 27 of 1939.**AN ACT to amend the Dairy Industry Act, 1922-1936.**

[Assented to 16th December, 1939.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Dairy Industry Act Amendment Act*, 1939, and shall be read as one with the Dairy Industry Act, 1922-1936 (No. 37 of 1922 as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1936), hereinafter referred to as the principal Act.

Amendment
of s. 2.

2. Section two of the principal Act is amended as follows:—

(a) by inserting after the definition of "Dairy produce factory" a new definition as follows:—

"Dairy Produce Improvement Fund" means the Dairy Produce Improvement Fund established by this Act;

(b) by inserting after the definition of "Prescribed" a new definition as follows:—

"Special dairy instructor" means a special dairy instructor appointed by the Minister under and for the purposes of the provisions of this Act relating to dairy produce improvement.

3. A section is inserted in the principal Act after section two as follows:— New section.

2A. (1) From and after the commencement of this section no person shall erect or cause to be erected, or utilise or cause to be utilised any building or premises for the purposes of a dairy produce factory or store or depot unless and until the consent of the Governor shall be first had and obtained.

Restriction on erection of premises to be used as a dairy produce factory.

cf. Qld. 10; Geo. V. No. 15, as amended by 26 Geo. V., No. 25, s. 27A.

Provided that—

- (i) this section shall not apply to any building or premises which at the time of the commencement of this section are already registered as a dairy produce factory, store, or depot; and
- (ii) the consent of the Governor shall not be necessary in respect of the utilisation of a dairy for the manufacture of dairy produce, where such dairy produce is manufactured solely from the milk produced in such dairy, if the utilisation of such dairy as aforesaid is approved by the Minister.

(2) Any person acting in contravention of this section shall be guilty of an offence.

Penalty: One hundred pounds.

(3) The Governor may grant or refuse any consent applied for under this section, and, when he grants his consent, he may do so unconditionally or upon and subject to such conditions as he may think fit.

(4) Applications for consent under this section shall be made as prescribed by the regulations.

4. Section five of the principal Act is amended by deleting therefrom subsection (2) and inserting in lieu thereof a subsection as follows:— Amendment of s. 5.

(2) (a) Upon such application being so made, and upon the inspector being satisfied that the premises are fit for such use, on payment of a prescribed fee not to exceed one pound, the premises shall be registered and a certificate of registration shall be issued to the applicant, which shall be evidence of registration under this Act. Registration.

Provided that such registration may be cancelled at any time in the manner prescribed, upon any one of the following grounds:—

- (i) If the manager or the owner or the occupier or any other person employed in the registered premises is after the commencement of this section convicted of three or more offences against this Act or the regulations relating to the mixing, treatment, testing, grading, or weighing of, or to payment for, milk, cream, or butter fat.
- (ii) When, in the case of a dairy produce factory in which butter is manufactured, the Minister is satisfied that in respect of any period of twelve months the owner has manufactured butter of which more than the prescribed proportion is non-choicest when manufactured from cream graded choicest; or
- (iii) When, in the case of a dairy produce factory in which cheese is manufactured, the Minister is satisfied that in respect of any period of twelve months the owner has manufactured cheese of which more than the prescribed proportion is non-choicest cheese from milk graded as the highest quality.

(b) In this subsection “non-choicest butter” and “non-choicest cheese” mean respectively butter and cheese which, in the opinion of the inspecting officer are of a grade lower than the highest grade prescribed therefor.

Amendment
of s. 11.

5. Section eleven of the principal Act is amended as follows:—

- (a) by adding at the end of the first proviso to subsection (1) the words “and the net balance then remaining shall be paid to the supplier entitled thereto at the close of the annual accounting period, as fixed under section fifteen of this Act, in which such excess accrued, and not later than three months after the close of such accounting period”;

(b) by adding after subsection (3) a new subsection as follows:—

(4) Where the manager of a dairy produce factory or any other person fails or neglects to make payment for any milk or cream supplied to such dairy produce factory strictly in accordance with the provisions of subsection (1) of this section, he shall be guilty of an offence against this Act.

Penalty: One hundred pounds.

6. A new section is inserted in the principal Act New section. after section eleven, as follows:—

11A. From and after the commencement of this section, every person who desires to supply cream to a dairy produce factory shall select the particular dairy produce factory to which he will supply cream, and thereafter he shall not transfer the supply of his cream from the factory which he has selected as aforesaid, and to which he has commenced to supply cream, to any other dairy produce factory until after the expiration of twenty-eight days' notice in writing of his intention so to do given by him to the manager of the factory from which he intends to transfer the supply of cream. In any notice given in accordance with this section, the supplier giving the same shall state therein the name and address of the dairy produce factory to which he intends to transfer the supply of cream.

Supply of cream to factory.

Provided that no person shall be guilty of any contravention of this section, if he satisfies the court that the transfer of his supply of cream or any portion thereof was made necessary by stress of weather or other circumstances beyond his control.

Provided also, that any person who at the commencement of this section is supplying his cream to more than one dairy product factory may continue to supply his cream to any two of such factories.

7. Section eighteen of the principal Act is repealed Amendment of s. 18; repeal and new section. and a new section is inserted in lieu thereof as follows:—

18. Margarine manufactured or sold within this State shall not contain any butter fat.

Margarine not to contain any butter fat.

New sections.

8. New sections are inserted in the principal Act after section twenty-four as follows:—

Dairy Pro-
duce Im-
provement
Fund.

24A. (1) For the purposes of this Act there shall be established a special fund, to be administered by the Under Secretary for Agriculture, under the supervision of the Minister, through a separate trust account, and to be known as the Dairy Produce Improvement Fund.

(2) The said fund shall consist of contributions to be made by managers of registered dairy produce factories as in this Act hereinafter provided for and to be received by the Under Secretary for Agriculture from such managers, and of any other moneys which may be appropriated by Parliament to the purposes of such fund. All such contributions and moneys on the receipt thereof by the Under Secretary for Agriculture shall be placed to the credit of the said fund.

(3) The moneys in the said fund shall be deposited in the name of the fund at the Treasury and, subject to this Act, shall be operated on by the Under Secretary for Agriculture.

(4) Subject in every case to the approval in writing of the Minister, the moneys in the said fund may be used for either or both of the following purposes, namely:—

- (a) the payment of salary, wages, fees, or other remuneration and the expenses of special dairy instructors appointed for the purposes of this Act; and
- (b) the adoption, conduct, and carrying out of measures appropriate to the provision of information and advice to suppliers of cream regarding faults in cream and the proper methods for improving the quality of cream, and the provision of information to manufacturers regarding the correct grading, testing, weighing, and handling of cream in factories.

Contribu-
tions to Dairy
Produce Im-
provement
Fund.

24B. (1) The manager of every dairy produce factory shall be liable to contribute to the Dairy Produce Improvement Fund in respect of all milk

or cream supplied to such factory for manufacture into dairy produce.

(2) The amount of the contribution shall be assessed in relation to the amount of money payable from time to time to suppliers of milk or cream, at a rate to be declared from time to time by the Governor, on the recommendation of the Minister. Provided that—

- (i) such rate of contribution shall not in any event exceed one penny in the money pound; and
- (ii) the liability to contribute to the said fund shall cease whenever and during such period as the moneys in the said fund, after allowing for outstanding commitments, exceed the sum of one thousand pounds.

(3) Such contribution shall, within the meaning and intent and for the purposes of section eleven of this Act, be a charge to be stated and levied by the manager of a factory for the manufacture of dairy produce.

(4) When the manager of a dairy produce factory has deducted contributions, in accordance with section eleven of this Act and with this section, out of moneys payable by him to suppliers, he shall place the contributions so deducted to the credit of a special account, and thereafter shall pay the same to the Under Secretary for Agriculture at the times and in the manner prescribed.

(5) The amount of all contributions deducted by the manager of a dairy produce factory as aforesaid shall, until paid by him to the Under Secretary for Agriculture, be a debt owing by such manager to the said Under Secretary for Agriculture, and, subject to the regulations, shall be recoverable at the suit of the said Under Secretary for Agriculture from the said manager in any court of competent jurisdiction.

(6) Any manager of a dairy produce factory who fails or neglects to deduct contributions from moneys payable by him for milk or cream supplied in accord-

ance with this section, and any manager of a dairy produce factory who, having deducted contributions from moneys payable by him for milk or cream supplied, fails or neglects or refuses without reasonable excuse to pay such contributions to the Under Secretary for Agriculture at the time or in the manner prescribed, shall be guilty of an offence against this Act.

Penalty: One hundred pounds.

(7) If at any time the manager of a dairy produce factory discovers that the amount of any contribution paid by him to the Under Secretary for Agriculture for the credit of the said Dairy Produce Improvement Fund is in excess of the amount of the contribution which under this section such manager was liable to pay when he paid such contribution to the Under Secretary for Agriculture, such excess sum may remain in the said fund to the credit of such manager against future contributions which may become payable by him or shall be refunded to him by the Under Secretary for Agriculture out of moneys in the said fund, as the manager may elect.

Dairy produce improvement instructors may be appointed.

24C. (1) The Minister may appoint such competent persons as he may think fit to be special dairy instructors for the purposes of this Act.

(2) Such special dairy instructors may be appointed for such periods, at such rate of remuneration, and subject to such conditions as the Minister may determine.

Duties of such instructors.

(3) Special dairy instructors appointed for the purposes of this Act shall have such rights, powers, and authorities and shall perform and carry out such duties as may be prescribed by regulations under this Act.

Citation of principal Act as amended.

9. The principal Act as amended by this Act may be cited as the Dairy Industry Act, 1922-1939.