

**METROPOLITAN WHOLE MILK.**

26° GEO. V., No. XXVII.

No. 27 of 1935.

**AN ACT to amend and to continue the operation of the  
Metropolitan Whole Milk Act, 1932.**

[Assented to 23rd December, 1935.]

**B**E 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:—

1. This Act may be cited as the *Metropolitan Whole Milk Act Amendment Act*, 1935, and shall be read as one with the Metropolitan Whole Milk Act, 1932 (No. 49 of 1932), which as amended by the Metropolitan Whole Milk Amendment Act, 1933 (No. 28 of 1933), is hereinafter referred to as the principal Act.

Short title.

2. Section two of the principal Act is hereby repealed and the following substituted therefor:—

Repeal s. 2,  
principal Act.  
New section:  
Preserving  
existing laws.

2. This Act shall not (except in so far as it expressly or impliedly indicates a contrary intention) affect the provisions of any other Act or of any regulation, by-law, Order in Council, or proclamation.

Amendment,  
s. 3, prin-  
cipal Act.

3. Section three of the principal Act is hereby amended—

(a) by adding a further definition, as follows, after the term “Contract milk” :—

“Cream” means that portion of the lacteal fluid of an animal in which either through rest or mechanical separation the greater portion of the fat has become concentrated. Such portion shall—

(i) be classed as cream, notwithstanding that it has been scalded, pasteurised, or preservatised;

(ii) not be classed as cream when it is used or intended to be used in the manufacture of butter or cheese;

(b) by striking out the definition of the term “Milk” and inserting the following :—

“Milk” means the lacteal fluid product of an animal when such fluid is intended for human consumption or use, notwithstanding that—

(i) it is intended for or purchased for the production of cream; or

(ii) it has been chilled, pasteurised, flavoured, or had any other substance added to it; or

(iii) that it is concentrated or solidified by freezing.

The term includes cream as hereinbefore defined, but does not include condensed milk.

(c) by striking out the words “under a written contract” in line three of the definition of “Quota” or “quota milk”;

(d) by striking out all words after the word “milk” at the end of the second line of the definition of “Surplus milk”;

(e) by inserting the word “separation” after the word “pasteurisation” in the definition of the term “Treatment.”

4. Section six of the principal Act is hereby amended by repealing paragraph (b) of subsection (2) of the section and substituting the following:—

Amendment,  
s. 6, principal Act.

(b) Two members as representatives of the dairymen licensed under this Act, one of whom shall be elected by those licensed dairymen being owners or occupiers of dairies within the area of the district defined in the Schedule, and one by those licensed dairymen outside such area.

5. Section eight of the principal Act is amended by adding a subsection, as follows:—

Amendment,  
s. 8, principal Act.

(3.) The election of the present members of the Board is hereby validated and, notwithstanding anything contained in this or the preceding section, the present members of the Board shall hold office until the thirty-first day of December, one thousand nine hundred and thirty-six.

6. Section nine of the principal Act is hereby amended by adding the following at the end of subsection (2):—

Amendment,  
s. 9, principal Act.

The provisions of this subsection shall apply to the present members of the Board, whose tenure of office expires on the thirty-first day of December, one thousand nine hundred and thirty-six.

7. Section seventeen of the principal Act is amended—

Amendment,  
s. 17, principal Act.

(a) by striking out all words after the word “functions” in line four of the section; and

(b) by inserting a subsection as follows:—

(2.) For the purpose of this Act the Board may, with the approval of the Minister of Public Health, authorise any specified officer or officers in the employ of the Board to exercise the powers and functions of health inspectors under the provisions of the Health Act, 1911-1933.

8. Sections twenty, twenty-one, twenty-two, and twenty-three of the principal Act are hereby repealed

Repeal, ss.  
20-23, principal Act.  
New sections enacted.

and the following new sections are substituted therefor:—

20. (1.) Subject to the provisions of subsection (3) of section twenty-two, no person shall—

- (a) carry on business as a dairyman in any dairy area; or
- (b) carry on business as a milk vendor in any district; or
- (c) treat milk intended for sale to consumers in the metropolitan area;

except on the authority of an appropriate license issued by the Board under this Act.

Penalty: Fifty pounds, or imprisonment for three months.

(2.) Subsection (1) of this section shall not apply to any person who proves to the satisfaction of the Board that milk produced by him is not sold or intended for sale to consumers in the metropolitan area.

(3.) For the purposes of this section the fact that any person who is the owner or occupier of any place where animals are kept for depasture or milking has delivered milk in any quantity or quantities aggregating one gallon or more on any specified day to any person or persons (other than to a member of the owner or occupier's family, or to any employee of the owner or occupier) shall be *prima facie* evidence that the owner or occupier was carrying on business as a dairyman at the place in question.

21. (1.) Licenses which may be issued under this Act are as follows:—

- (i) A dairyman's license—which shall entitle the licensee to carry on the business or calling of a dairyman in specified premises in a specified dairy area and to supply by wholesale milk produced on such premises for consumption or treatment in the metropolitan area.
- (ii) A milk vendor's license—which may be in one of the following forms and have effect as follows—
  - (a) a milkman's license—which shall entitle the licensee to sell milk in a specified district in the metropolitan area from any vehicle or

Prohibition against carrying on business as dairyman, milk vendor, or treating milk without license.

Kinds of licenses.

vehicles used by the holder for the distribution of milk from a specified depot or place in the metropolitan area;

- (b) a cream vendor's license—which shall entitle the licensee to sell cream from any vehicle or vehicles in a specified locality in the metropolitan area;
- (c) a milk shop license—which shall entitle the licensee to sell in a specified shop in the metropolitan area milk for consumption on or off the premises;
- (d) a milk store license—which shall entitle the licensee to sell milk in a particular store in the metropolitan area, to be named in the license, provided the milk is consumed in the store.

(iii) A treatment license—which shall entitle the licensee to treat milk for use or consumption in the metropolitan area, but in particular premises to be specified in the license.

(2.) Every license shall be issued subject to the provisions of this Act and the regulations from time to time made thereunder.

(3.) Every license shall be incapable of transfer or assignment, except with the express approval in writing of the Board.

(4.) The fee for a license shall be as prescribed, but shall not exceed ten shillings.

22. (1.) Every person who desires to obtain a license under this Act shall make application in writing to the Board in the prescribed form.

How licenses  
obtained.

(2.) Licenses shall have effect until the thirtieth day of June next following the date of the issue thereof.

(3.) Any person who on the thirtieth day of June preceding the day of application for a license was the holder of the particular kind of license applied for under this Act, shall be entitled to a period of fourteen days' grace after the thirtieth day of June in which to apply for a license, and shall not during such period of grace be liable to any penalty for carrying on business in terms of the license so held by him.

(4.) (a) All licenses in force at the commencement of this section shall by force of this Act be deemed to be surrendered at the expiration of thirty days from such date of commencement.

(b) If the licensee under any such license desires to obtain a license under this Act in substitution for such surrendered license, he shall make application to the Board in the prescribed form, and the Board shall deal with the same and exercise the same powers and authorities in regard thereto as it may exercise in relation to other applications under this Act.

(c) The fixed fee payable under section twenty-one shall not be payable in respect of any such substituted license.

Appeal where  
license re-  
fused.

23. (1.) Any person to whom the Board has refused to issue a license under this Act may appeal within the prescribed time and manner against the decision of the Board to a resident or police magistrate or magistrate of a local court sitting within the metropolitan area as defined by this Act.

(2.) On the hearing of the appeal the magistrate may order the license applied for to be issued, or may confirm the decision of the Board, and effect shall be given by the Board to any decision of the magistrate.

(3.) The decision of the magistrate shall be final.

Amendment,  
s. 24, prin-  
cipal Act.

9. Section twenty-four of the principal Act is hereby amended by adding in subsection (1) after the word "Act" in the third line of the subsection the following words:—

"or for any offence against the laws or regulations relating to public health (provided such last-mentioned offence relates to the premises in respect of which the license is granted, or to the conduct of the business carried on in connection with such premises)".

New sections:  
penalty for  
mixing milk  
for treatment.

10. The following new sections are hereby inserted after section twenty-four of the principal Act:—

24A. Any licensed person who mixes or permits the mixing of any milk purchased or obtained for

treatment with any other milk not purchased or obtained for treatment commits an offence against this Act.

Penalty: Fifty pounds or imprisonment for three months.

24B. (1.) Any unlicensed dairyman who sells or supplies or offers to sell or supply milk to any licensed dairyman for the purpose of or in connection with the business of the licensed dairyman commits an offence against this Act.

Illicit dealing  
in milk.

(2.) Any licensed person who obtains any milk for sale or treatment under his license from any unlicensed person commits an offence against this Act.

(3.) Any person who commits an offence under the provisions of this section shall be liable to a penalty of fifty pounds, or imprisonment for three months.

24C. (1.) Any proceedings civil or penal may be taken in the name of the Board by any secretary or officer authorised by the Board.

How legal  
proceedings  
taken.

(2.) No proof shall be required of the appointment of the secretary or any such officer as an officer of the Board, or of the authority of the secretary or officer to take civil or penal proceedings in the name of the Board, but the allegation on the process that the officer in question is so authorised shall be deemed conclusive proof of the fact.

11. Section twenty-six A of the principal Act is amended by striking out the words "at the suit of the chairman of the Board" in the fourth line of subsection (2).

Amendment,  
s. 26A, prin-  
cipal Act.

12. Section twenty-six B of the principal Act is repealed and the following new section substituted:—

Amendment,  
s. 26B, prin-  
cipal Act.

26B. (1.) Any milk vendor who—

- (a) applies for or holds a milk shop license or a milk store license; and
- (b) satisfies the Board that a fair estimate of the quantity of milk to be sold by him under the license is under one thousand gallons for the whole period of the license,

Contributions may be commuted to fixed payment in certain cases.

shall be entitled to pay to the Board—

- (i) where the estimated quantity is under five hundred gallons, a fee of ten shillings;
- (ii) where the estimated quantity is over five hundred gallons but under one thousand gallons, a fee of one pound,

in full satisfaction of the fixed fee otherwise payable for the license and in discharge of his obligations under the license pursuant to sections twenty-five and twenty six A.

(2.) On receipt of the fee prescribed by this section the Board shall deduct the fixed fee for the license as prescribed under section twenty-one and apportion the balance in such proportions as the Board may think fit in satisfaction of the obligations of the licensee under sections twenty-five and twenty-six A.

Repeal, s. 28, new section enacted.

13. Section twenty-eight of the principal Act is hereby repealed and the following new section substituted therefor:—

Avoiding necessity to register premises with local authority.

28. Notwithstanding the provisions of any other Act, regulation, or by-law, any person who is the holder of a license under this Act in respect of any particular premises shall not be required to obtain a license for or obtain registration of the same premises from any local health authority or local board of health, in order to enable him to occupy or carry on any premises as a dairy or sell dairy produce on the premises in question.

Amendment, s. 30, principal Act.

14. Section thirty of the principal Act is amended by striking out all words after the words "dairy areas" in paragraph (9) of the section.

Amendment, s. 32, principal Act.

15. Subsection (2) of section thirty-two of the principal Act is repealed and the following is substituted:—

(2.) The regulations may impose—

- (a) a maximum penalty of fifty pounds, with or without a minimum penalty of two pounds, for a breach of any regulation;
- (b) a daily penalty not exceeding two pounds for every day in respect of any such breach which still continues after conviction.



16. Section forty-two of the principal Act is amended by striking out the word "thirty-five" and substituting "thirty-six" for the word struck out.

Amendment,  
s. 42, prin-  
cipal Act.

17. A Schedule is added to the principal Act, as follows:—

Adding  
schedule for  
purpose of  
s. 4.

THE SCHEDULE.

---

A line extending due east from the west coast to and passing through the Wanneroo twelve-mile road post; thence continuing directly to one and one-half miles east of the Midland Railway to the 116 degrees 3 minutes east meridian of longitude; thence due south crossing the Eastern Railway one-half mile west of Swan View railway station to the Canning river; thence due west one mile south of Kelmscott railway station continuing in a line due west to meet the coast one mile north of Woodman's Point.

18. (1.) The principal Act as amended by this Act shall be reprinted under the supervision of the Clerk of Parliaments.

Reprinting of  
principal Act  
and amend-  
ments—  
method of  
citation.

(2.) In any such reprint—

- (a) the sections shall be renumbered in arithmetical order and the cross references adjusted;
- (b) wherever there is a reference to "whole milk" the term "milk" shall be substituted.
- (c) the name "Metropolitan Milk Board" shall be substituted for the "Metropolitan Whole Milk Board," wherever it occurs.

(3.) The short title of such reprint shall be the Metropolitan Milk Act, 1932-1935.