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WESTERN AUSTRALIA.

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## FILLED MILK.

8° Elizabeth II., No. XXIV.

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No. 24 of 1959<sup>1</sup>.

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(Affected by Act No. 113 of 1965 and reprinted pursuant to the Amendments Incorporation Act, 1938.)

**AN ACT to prohibit the Manufacture and Sale of Filled Milk and for other purposes.**

*[Assented to 15th October, 1959.]*

BE it enacted—

1. This Act may be cited as the *Filled Milk Act*, Short title.  
1959.

2. This Act shall come into operation on a day Commence-  
to be fixed by proclamation.<sup>1</sup> ment.

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<sup>1</sup> Came into operation 20th November, 1959. See *Gazette* 20/11/59, p. 2877.

Interpreta-  
tion.

3. In this Act unless the context requires otherwise—

“butter fat” means fat from the milk of a cow;

“Committee” means the Advisory Committee constituted under section five of this Act;

“filled milk” means any liquid or powder containing the non fat solids of milk with which is incorporated or to which is added any fat other than butter fat, whether described as filled milk or by any other name and whether or not intended as a substitute for milk or for whole milk powder;

“inspector” means an inspector under this Act;

“manufacture” includes prepare and process;

“member” means a member of the Committee;

“milk” means milk from a cow;

“package” includes every means by which goods may be cased, covered, contained or packed; and “to pack” and its derivatives have corresponding interpretations;

“place” includes any building, premises, land vehicle or boat;

“sale” includes barter, exchange, deal in, agree to sell, offer or expose for sale, have in possession for sale, send, forward or deliver for or on sale or authorise, direct, cause, suffer, permit or attempt any of the foregoing; and “to sell” and its derivatives have corresponding interpretations.

Exemption  
of certain  
products.

4. (1) The provisions of this Act do not apply with respect to any product specified by the Minister in a notice published in the *Government Gazette* as being exempt from the provisions.

(2) The Minister may determine whether or not a product shall be so exempted but before so determining he shall consider a report and recommendation of the Committee in respect of the product concerned.

5. (1) For the purposes of this Act the Minister shall appoint five persons to constitute the Advisory Committee as follows—

Advisory  
Committee.

- (a) a person representing the Department of Agriculture, who shall be chairman of the Committee;
- (b) a person representing the Milk Board of Western Australia constituted under the Milk Act, 1946;
- (c) a person nominated by the governing body for the State of the British Medical Association, which person shall represent the consumers of milk;
- (d) a person who shall represent the manufacturers of processed milk chosen from a panel of three names submitted by the West Australian manufacturers of processed milk; and
- (e) a person chosen from a panel of three names submitted by the Farmers' Union of W.A. Incorporated who shall represent the dairy farmers in the State.

(2) The Minister shall cause notice of appointments to the respective offices of members of the Committee to be published in the *Gazette* and when the notice is so published the Committee is constituted.

(3) If any of the bodies referred to in paragraphs (b), (c), (d) or (e) of subsection (1) of this section, fails within thirty days after the receipt of a written request from the Minister to nominate a person for appointment to the Committee or to submit to him a panel of names of persons suitable for appointment to the Committee as the case may

require, the Minister on behalf of the body may without the nomination of such person or panel appoint a suitable person to be a member who shall be deemed to represent that body.

(4) A member holds office for a term of three years, but upon the expiration of the term for which he is appointed, is eligible for re-appointment if he is then qualified to be appointed a member of the Committee.

(5) Where a vacancy occurs in the office of member caused other than by the retirement of a member on the expiration of the term of his office, a person appointed to fill the vacancy holds office only for the unexpired portion of the term of the office of the member in whose place he is appointed.

(6) At all meetings of the Committee the chairman, or in his absence a member elected by the members present to be chairman of the meeting shall preside.

(7) The Committee shall conduct its proceedings in such manner as may be prescribed and until prescribed as the Committee determines, but in any case—

each member including the person presiding at a meeting is entitled to one vote only on the determination of any question;

three members constitute a quorum for the conduct of business;

the majority of the votes of the members present determines all questions.

6. (1) No person shall manufacture or pack filled milk.

(2) A person who manufactures or packs filled milk is guilty of an offence against this Act and is liable in the case of a first offence to a penalty of four hundred dollars and in the case of a second or subsequent offence to a penalty of six hundred dollars.

7. (1) No person shall sell filled milk.

Prohibition  
of the sale  
of filled  
milk.

Amended by  
No. 113 of  
1965, s. 8.

(2) A person who sells filled milk is guilty of an offence against this Act and is liable in the case of a first offence to a penalty of two hundred dollars and in the case of a second or subsequent offence to a penalty of six hundred dollars.

(3) This section does not apply to the sale of filled milk in the course of interstate trade or commerce.

8. Every person appointed an inspector pursuant to the provisions of section eight of the Dairy Industry Act, 1922, is an inspector for the purposes of this Act.

Inspectors.

9. (1) An inspector may at any reasonable time—

Powers of  
inspectors.

- (a) enter and search any place where filled milk is manufactured, stored, packed or sold or is suspected by the inspector to be manufactured, stored, packed or sold;
- (b) inspect any filled milk or other substance which the inspector suspects is filled milk and any plant, machinery, apparatus or utensil in or upon the place;
- (c) without payment take samples of any filled milk or other substance and for the purpose open or cause to be opened any package which contains or which the inspector suspects to contain filled milk.

(2) Where an inspector takes a sample he shall

- (a) divide the sample into three approximately equal parts;
- (b) place each part in a separate package and seal or fasten each package;
- (c) attach to each package a label stating, so far as known to him the name of the occupier of the place from where the sample was taken;

- (d) deliver one of the parts to the person in charge or apparently in charge of the place;
- (e) retain one of the parts for future comparison; and
- (f) forward the other part to an analyst for analysis.

Powers of inspectors relating to books.

10. For the purposes of this Act, an inspector may at any reasonable time enter any place where he suspects that accounts, books or documents relating to filled milk or to any fat, oil, powder or other substance of any kind commonly used in the manufacture of filled milk, are kept and may inspect, make copies of, and take extracts from, the accounts, books or documents.

Purchaser of filled milk to supply information.

11. (1) An inspector may at any time require the purchaser of any filled milk to state the name and address of the vendor from whom he purchased the filled milk.

(2) A person who when so required—

- (a) does not state the name and address of the vendor if known to him; or
- (b) states a name and address which is false or misleading;

is guilty of an offence against this Act.

Power to inspector to seize filled milk.

12. (1) An inspector may seize, detain or remove any filled milk which he has reason to believe has been manufactured or packed in contravention of this Act or in respect of which he has reason to believe an offence against this Act has been committed.

(2) Where any filled milk is so seized, detained or removed by an inspector, he shall forthwith give notice of the seizure, detention or removal to any person apparently in charge of the filled milk or in the absence of that person, give notice to any person appearing to be the consignor or owner of the filled milk by any name or address attached to it or to any package containing the filled milk, if the address is a place within the State, and otherwise to the importer or consignee or his agent.

*Filled Milk.*

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(3) (a) A person claiming any filled milk so seized, detained or removed, may within forty-eight hours after the seizure, detention or removal, on complaint in respect thereto made to a justice, seek an order for the return to him of the filled milk.

(b) A stipendiary magistrate shall hear and determine the complaint and he may after hearing the evidence either confirm wholly or in part or disallow the seizure, detention or removal, and may make such order as in the circumstances he thinks fit.

(4) If no complaint is made, or if the seizure, detention or removal of the filled milk is confirmed, then to the extent of the confirmation, the filled milk becomes the property of the Crown and shall be destroyed or otherwise dealt with in such other manner as the Minister thinks fit.

(5) An inspector who has so seized, detained or removed any filled milk is not liable for any costs, expenses or damages on account thereof if he acted under a reasonable belief that the filled milk had been manufactured or packed in contravention of this Act or that an offence against this Act had been committed in respect of the filled milk.

13. (1) Every person who contravenes any provision of this Act is guilty of an offence against this Act.

Offences.  
Amended by  
No. 113 of  
1965, s. 8.

(2) Every person who is guilty of an offence against this Act for which no penalty is specifically provided is liable to a penalty of two hundred dollars.

14. The Governor may make regulations prescribing all forms, fees and matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed

Regulations.

for carrying out or giving effect to this Act and, without limiting the generality of this power, may make regulations for all or any of the following purposes—

- (a) prescribing the methods of analysis of any filled milk for the purposes of this Act;
- (b) prescribing the chemical and physical criteria for the fatty portion of any kind of filled milk which may constitute the basis of proof for the purposes of this Act that any fat in the filled milk is or is not of a particular nature;
- (c) for regulating the conduct of proceedings at meetings of the Committee;
- (d) prescribing the rates of remuneration to be paid to members of the Committee.