

Western Australia

Bread Act 1982

As at 15 Nov 2002

Version 01-a0-03

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Bread Act 1982

An Act to amend the law and make further provision relating to the manufacture, preparation, baking, sale and delivery of bread, to repeal the *Bread Act 1903*, and for incidental purposes.

1. Short title

This Act may be cited as the *Bread Act 1982*¹.

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

3. Interpretation

(1) In this Act, unless the context otherwise requires —

“bakehouse”, in relation to any bread intended for trade or sale, means any building, premises, room or other place —

- (a) in which the dough for the bread or the bread is manufactured, prepared or baked; or
- (b) which is used, in conjunction with any building, premises, room or place of the kind referred to in paragraph (a), for the storage of —
 - (i) material to be used in the manufacture, preparation or baking of the bread; or
 - (ii) the bread when manufactured, prepared or baked;

“baker” means —

- (a) in relation to employees, any person employed in or in connection with the mixing, moulding or baking of

dough for bread or on any general work in or in connection with the mixing, moulding or baking operations conducted in a bakehouse; and

(b) in relation to employers, any person who —

(i) himself; or

(ii) by the services of persons employed or engaged therein,

conducts the mixing, moulding or baking operations in a bakehouse;

“bread” means a product obtained by baking, being “bread” as for the time being defined pursuant to regulations in force under the *Health Act 1911*;

“chief executive officer” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

“inspector” means a person designated as an inspector under section 5;

“paragraph” means a paragraph of the section or subsection in which the term is used;

“section” means section of this Act;

“sell” means to sell by wholesale or retail, and includes to barter, supply for profit, offer for sale, expose for sale, send forward or deliver for sale, or to cause or suffer or permit to be sold, and cognate expressions have a corresponding meaning;

“subparagraph” means a subparagraph of the paragraph in which the term is used;

“subsection” means a subsection of the section in which the term is used;

“the repealed Act” means the Act repealed by section 18.

(2) A reference in this Act to a failure to do any act or thing shall be read as including a refusal or neglect to do that act or thing.

[Section 3 amended by No. 109 of 1987 s. 4; No. 57 of 1997 s. 24(1).]

4. Administration

The administration of this Act shall be vested in the Minister and, subject to any direction of the Minister, it shall be the duty of the chief executive officer to implement this Act.

[Section 4 amended by No. 57 of 1997 s. 24(2).]

5. Inspectorate

- (1) The Minister may appoint, under and subject to Part 3 of the *Public Sector Management Act 1994*, such officers and other persons as are necessary to implement this Act.
- (2) The chief executive officer may designate any person referred to in subsection (1) as an inspector.
- (3) A person who is designated as an inspector for the purposes of this Act —
 - (a) shall be furnished with a certificate in the prescribed form specifying his appointment;
 - (b) shall, upon entering any place pursuant to the powers conferred upon him, produce that certificate if requested so to do by the occupier of that place; and
 - (c) shall exercise the powers conferred and perform the duties imposed on him by this Act subject to the direction of the chief executive officer.
- (4) A question, inquiry or requirement that is put or made on behalf of an inspector by a person acting as interpreter for the inspector shall be deemed to have been put or made by the inspector, and any answer thereto, made to the interpreter, shall be deemed to have been made to the inspector.
- (5) A person who obstructs a person who is acting as professional or expert adviser to, or interpreter for, an inspector shall for the purposes of subsection (9) be deemed to have obstructed the

inspector in the execution of his duties and is liable to be punished accordingly.

- (6) An inspector, at any reasonable hour of the day or night, may —
- (a) enter, inspect and examine any place used, or intended to be used, as a bakehouse or as a place in which bread is traded or sold;
 - (b) take with him into any such place any person he may require as a professional or expert adviser or interpreter, and whose assistance he thinks necessary for the performance of his duties under this Act;
 - (c) question, with respect to matters under this Act, any person he finds in any such place or whom he has reasonable cause to believe to be, or within the last preceding 2 months to have been, the occupier or an employee of the occupier of any such place, and require that person —
 - (i) to answer any questions put to him by the inspector; and
 - (ii) to sign a statutory declaration as to the truth of his answers;
 - (d) seize or take away samples of any bread, whether in a bakehouse or elsewhere;
 - (e) make such examination and inquiry and conduct such tests, whether within a bakehouse or elsewhere, as may be necessary or desirable to ascertain whether the provisions of this Act are being complied with;
 - (f) require the production of, and inspect, examine and copy, or make extracts from, any book, notice, record, licence, or document that is required by or under this Act to be kept or exhibited or that are kept and that relate to the operations conducted in a bakehouse;
 - (g) require any person whom he finds committing or whom he reasonably suspects has committed an offence against this Act, or whom the inspector is authorised to question

- under this Act, or whose name and address is, in the opinion of the inspector, reasonably required for the purpose of carrying out his duties under this Act, to state his name and address, and, if he has reasonable ground for suspecting that the name or address as stated is false, require evidence of the correctness thereof;
- (h) subject to the direction of the chief executive officer, institute proceedings for offences against this Act; and
 - (i) exercise such other powers and authorities for the purposes of this Act as may be prescribed.
- (7) The occupier of a bakehouse or of a place in which bread is, or is intended to be, traded or sold shall furnish the means required by an inspector as necessary for any entry, inspection, examination, inquiry or taking of samples or otherwise for the exercise of his powers under this Act in relation to that bakehouse or place.
- (8) A person shall not be required, under the authority of this section, to answer any question or give any information that might tend to incriminate him, and before any person is questioned by an inspector pursuant to this section the inspector shall advise the person accordingly.
- (9) A person who —
- (a) assaults, resists or impedes, delays or in any way obstructs an inspector in the exercise of his powers or in the discharge of his duties under this Act;
 - (b) fails, without lawful excuse, to answer any question put to him in pursuance of this Act by an inspector or a person acting as professional or expert adviser to, or interpreter for, an inspector or gives a false or misleading answer to any such question;
 - (c) when required by or under this Act to furnish any assistance or to furnish any information to an inspector, fails to furnish that assistance or information or furnishes false or misleading information;

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- (d) fails, when so required by an inspector, to produce any licence under this Act held by him, or any book, notice, record or other document that is required by or under this Act to be kept by him, or to be produced to an inspector, or fails to allow the inspector to make copies of or take extracts from it or of any part thereof or of any entries therein;
- (e) fails to comply in any other respect with the lawful request, requirement, direction or order of an inspector;
- (f) refuses to sign any declaration that he is required by or under this Act to sign;
- (g) directly or indirectly prevents any person from appearing before or being questioned by an inspector in accordance with this Act, or attempts to do so; or
- (h) uses any threats or any abusive or insulting language to any inspector or any employee with respect to any inspection, examination or requirement made by an inspector,

commits an offence.

Penalty: \$400.

- (10) A person who acts as a professional or expert adviser to, or interpreter for, an inspector shall not disclose to any person any information that he acquires in the performance of his duty as such adviser or interpreter, otherwise than for the purposes of this Act and to assist an inspector in the exercise of his duties under this Act.

Penalty: \$1 000.

- (11) A person who discloses or makes use of any information that has been furnished to him or obtained by him under this Act, or in connection with the administration of this Act, unless that information is disclosed or used —
 - (a) with the consent of the person carrying on or operating any business to which that information relates; or

- (b) for the purpose of giving effect to the objects of this Act and in the performance of a duty under this Act,

commits an offence.

Penalty: \$1 000.

[Section 5 amended by No. 109 of 1987 s. 5; No. 32 of 1994 s. 3(2); No. 57 of 1997 s. 24(2).]

6. Orders etc. may be varied by chief executive officer

Where an inspector has issued any order, given any direction or notice, or made any request or requirement under this Act, he or any other inspector may at any time by direction of the chief executive officer withdraw, revoke or from time to time vary the order, direction, notice, request or requirement, or take such further action in relation thereto as may be necessary to give effect to that direction of the chief executive officer.

[Section 6 amended by No. 109 of 1987 s. 6; No. 57 of 1997 s. 24(2).]

7. Bakehouse licences

- (1) Any baker who, not being an employee in relation thereto, uses or occupies any bakehouse as a bakehouse unless or until a licence under this section has been granted to him in respect of that bakehouse commits an offence.
- (2) A bakehouse shall not be licensed unless it complies with the requirements of —
- (a) this Act; and
 - (b) the *Factories and Shops Act 1963*², and the regulations made under that Act relating to factories in so far as they are applicable to that bakehouse as a factory.
- (3) A licence under this section —
- (a) shall be in the prescribed form;
 - (b) has effect on the day specified therein, and for a period of 12 months thereafter unless cancelled;

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- (c) unless cancelled, is renewable at any time within the period of one month preceding the day on which the licence would otherwise expire;
 - (d) has effect notwithstanding any change in the ownership or occupancy of the bakehouse, but may, subject to the approval of the chief executive officer, be transferred; and
 - (e) may, if the chief executive officer is satisfied that any order served under this Act on the owner or occupier of the bakehouse licensed has not been complied with, be cancelled by the chief executive officer by written notice under his hand served on the holder of the licence.
- (4) An application for the grant, renewal, or transfer of a licence under this section shall be made in the prescribed form in writing to the chief executive officer by or on behalf of the occupier or proposed occupier of the bakehouse, and the applicant shall also furnish such particulars as are prescribed and such other information as the chief executive officer requires in relation to the application.
- (5) Where the chief executive officer —
 - (a) refuses an application made under subsection (4); or
 - (b) cancels a licence under this section,he shall give notice to the applicant or holder of the licence, as the case may be, setting out the grounds for the refusal or cancellation and the applicant or holder may, within 14 days of receipt of that notice, appeal against the decision under subsection (6).
- (6) An appeal against the refusal to grant, renew, or transfer a licence, or against the cancellation of a licence, under this section shall be made to the Local Court nearest to the place to which the application or licence relates —
 - (a) by filing in that Court a notice of appeal in the prescribed form setting forth with reasonable particularity the grounds of appeal; and

- (b) by serving a copy of the notice of appeal on the chief executive officer as soon as practicable after the notice of appeal is filed in the Local Court.
- (7) Upon the notice of appeal being duly filed the Local Court shall fix a time and place for the hearing of the appeal, being the earliest convenient time, and the clerk of the Court shall notify the appellant and the chief executive officer of the time and place fixed for the hearing of the appeal.
- (8) On the hearing of the appeal the Local Court may by order confirm, reverse or vary the decision of the chief executive officer as it thinks fit, and effect shall be given to the order.

[Section 7 amended by No. 109 of 1987 s. 7; No. 57 of 1997 s. 24(2).]

8. Hours of delivery

- (1) In this section, unless the context otherwise requires —
“delivery” means the transportation or movement of bread from a bakehouse.
- (2) A person who —
- (a) at any time other than —
- (i) between 4 a.m. and 6 p.m. on any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday; or
- (ii) between 5 a.m. and 9 a.m. on any Sunday, delivers, or accepts the delivery of bread for sale; or
- (b) authorises or permits any other person to deliver bread as mentioned in paragraph (a),

commits an offence.

Penalty —

- (i) for the first offence, \$2 000;
- (ii) for the second offence, \$5 000; and
- (iii) for the third or subsequent offence, \$10 000.

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- (3) A person shall not be taken to have contravened subsection (2) where the delivery of bread is made pursuant to an authorisation given by the Minister under subsection (4) and in conformity with that authorisation.
- (4) The Minister, having regard to —
- (a) the requirements of a remote locality or a holiday resort;
 - (b) exceptional or unforeseen circumstances which have arisen or are likely to arise; or
 - (c) any other circumstances the Minister considers relevant,
- may authorise any person to deliver or accept the delivery of bread during any hours not otherwise authorised by subsection (2), on such conditions as the Minister determines.
- (5) For the purposes of this section, the delivery of bread shall be taken to have commenced when the delivery vehicle leaves the place where the bread to be delivered is loaded on that vehicle.

[Section 8 inserted by No. 109 of 1987 s. 8.]

[9-12. Repealed by No. 109 of 1987 s. 8-11.]

13. Delivery vehicles

A person who causes, or authorises or permits, a vehicle, not being the vehicle of a purchaser taking delivery at the bakehouse of bread purchased by him, to be used for the sale or delivery of bread from the bakehouse where the bread was baked, whether to another place for sale or to the premises of the purchaser, commits an offence unless that vehicle is plainly, conspicuously, and permanently marked, in characters of not less than 100 millimetres in height, with the name and address of the proprietor of the bakehouse or the trading name and address of the bakehouse and also the word “baker” or “bakery”.

14. General penalty provisions

- (1) A person who —

- (a) does that which by or under this Act he is forbidden to do; or
- (b) fails to do that which by or under this Act he is required or directed to do; or
- (c) otherwise contravenes or fails to comply with any provision of this Act,

commits an offence against this Act.

- (2) A person who commits an offence against this Act is liable on conviction to a penalty not exceeding the penalty expressly provided as the penalty for that offence, or, if a penalty for that offence is not so provided to a fine not exceeding \$400.

15. Proceedings for offences

- (1) All proceedings in respect to offences against this Act shall be heard and determined by a stipendiary magistrate sitting alone.
- (2) A prosecution for an offence against this Act may be instituted upon a complaint by any inspector or by any other person and may be heard and determined summarily pursuant to the *Justices Act 1902*.

16. Indemnity

No act, matter or thing done or omitted to be done by the Minister, the chief executive officer, or any inspector in good faith or in the exercise or purported exercise of any power or function conferred by or under this Act shall subject him to any personal liability in respect thereof.

[Section 16 amended by No. 57 of 1997 s. 24(2).]

17. Evidentiary matters

In any proceedings for an offence against this Act —

- (a) it is not necessary to prove the appointment of an inspector or his authority to do any act, to issue any order, to give any direction or notice, to make any

request or to take any proceedings, but nothing in this paragraph prevents the right of the defendant to prove the extent of that authority;

- (b) a signature purporting to be that of the Minister, of the chief executive officer, or of any inspector shall be taken to be the signature of the person whose signature it purports to be until the contrary is proved;
- (c) a statement signed by the chief executive officer that a licence or authorisation of the description mentioned in the statement has or has not been granted pursuant to this Act to a person in respect to any bakehouse or the delivery of any bread specified in the statement, and as to the date on which it was granted and the particulars contained therein, is evidence of the matters specified in the statement;
- (d) the allegation in or averment in any complaint that any building, premises, room or other place —
 - (i) is, or was; or
 - (ii) is not, or was not,a bakehouse at the time stated therein is evidence thereof;
- (e) any work done in a bakehouse shall be deemed to have been done, and any person working therein shall be deemed to have been working, with the knowledge and by the authority of the occupier unless the contrary is proved; and
- (f) any flour, dough or bread found on the premises of any person apparently carrying on the business of a baker or vendor of bread, or being conveyed by any such person in a vehicle, shall be taken to be intended for sale until the contrary is proved.

[Section 17 amended by No. 109 of 1987 s. 12; No. 57 of 1997 s. 24(2).]

18. Repealed Act, and transitional provisions

- (1) The *Bread Act 1903* is repealed.
- (2) Without limiting the provisions of the *Interpretation Act 1918*³, the repeal effected by subsection (1) does not affect any licence granted under the repealed Act in relation to a bakehouse in force at the time of the repeal, or any thing done under a provision so repealed so far as it is subsisting at the time of the repeal and could have been done under this Act, and any such licence granted or thing done shall continue and have effect as if it had been granted or done under the corresponding provision of this Act and as if that provision was in force when the licence was granted or the thing was done.
- (3) Where any person is the holder of a licence in relation to a bakehouse granted under the repealed Act he may apply for the grant of a licence under this Act at any time before the expiry of the licence granted under the repealed Act and the matter may be dealt with as though it were an application for the renewal of a licence.

19. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act and, in particular —
 - (a) providing for the forms and other documents required for the purposes of this Act, and regulating generally the giving, furnishing and keeping of them;
 - (b) prescribing the fees payable under this Act, the persons by whom and the manner in which they shall be paid, and as to their recovery;
 - (c) providing that contravention or failure to comply with a regulation constitutes an offence, and prescribing penalties not exceeding a fine of \$400 for any such offence;

- (d) empowering the chief executive officer by order served on the owner or occupier of any bakehouse specifying —
 - (i) the steps to be taken; and
 - (ii) the time within which those steps are to be taken, to require the owner or occupier, as may be specified in the order, to take steps in relation to any bakehouse or the conduct of any operations in a bakehouse to secure compliance with any provision of this Act;
 - (e) regulating the operations in any bakehouse, or the delivery or sale of bread;
 - [(f)-(j) deleted]*
 - (k) as to the powers and duties of inspectors for the purposes of this Act.
- (2) Regulations may be made under this section —
- (a) so as to making differing provision dependant upon a specified time, place, circumstance, or class of case;
 - (b) so as to require a matter affected by them to be in accordance with a specified standard or specified requirement;
 - (c) so as to provide for the exemption, either wholly or in part or subject to prescribed conditions, of specified persons, places, or things from specified provisions of the regulations; and
 - (d) so as to confer upon a specified person or class of persons a discretionary authority.
- (3) In this section “**specified**” means specified in the regulations.

[Section 19 amended by No. 109 of 1987 s. 13; No. 57 of 1997 s. 24(2).]

Notes

- ¹ This is a compilation of the *Bread Act 1982* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Bread Act 1982</i>	106 of 1982	8 Dec 1982	1 Mar 1983 (see s. 2 and <i>Gazette</i> 25 Feb 1983 p. 640)
<i>Bread Amendment Act 1985</i>	2 of 1985	8 Mar 1985	5 Apr 1985
<i>Bread Amendment Act 1987</i>	109 of 1987	19 Dec 1987	12 Jun 1988 (see s. 2 and <i>Gazette</i> 10 Jun 1988 p. 1897)
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 24	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Reprint of the <i>Bread Act 1982</i> as at 15 Nov 2002 (includes amendments listed above)			

- ² Repealed by the *Industrial Relations Legislation Amendment and Repeal Act 1995*.
- ³ Repealed by the *Interpretation Act 1984*.