

MARGARINE.

No. 28 of 1973.

AN ACT to amend the Margarine Act, 1940-1952.

[Assented to 6th June, 1973.]

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

1. (1) This Act may be cited as the *Margarine Act Amendment Act, 1973*.

Short title
and
citation.

(2) In this Act the Margarine Act, 1940-1952 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Margarine Act, 1940-1973.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date as is, or such dates as are, respectively, fixed by proclamation.

Section 6
amended.

3. Section 6 of the principal Act is amended—

(a) by adding after the interpretation “Butterfat” the following interpretation—

“Colouring substance” means any substance which is capable of being used for the purposes of colouring, whether the substance is used by itself or in combination with any other substance or substances. ;

(b) by adding after the interpretation “Cooking margarine license” the following interpretations—

“Dealer” means a person who, on his own account or as the servant, agent or representative in this State of a person carrying on business at a principal place of business outside the State, purchases or receives margarine for the purposes of resale wholesale or sale wholesale.

“Edible fats and oils” means fats and oils which—

(a) are free from rancidity, from decomposition and from offensive odour and taste; and

(b) if derived from animal origins, are derived from animals which were at the time of slaughter in good health and fit for human consumption.

“Flavouring substance” means any substance which is capable of being used for the purposes of flavouring

whether the substance is used by itself or in combination with any other substance or substances. ;

- (c) by adding after the interpretation "Inspector" the following interpretations—

"Manufacturing margarine" means margarine which contains beef fat or mutton fat or beef fat and mutton fat in a quantity between seventy-five and ninety per centum by weight of the total quantity of fat and oil contained in such margarine and does not resemble butter in colour.

"Manufacturing margarine license" means a license to manufacture only manufacturing margarine issued under this Act and for the time being in force and includes both an original license and a license issued by way of renewal of a prior license. ; and

- (d) by adding after the word "margarine" in line two of the interpretation "Table margarine" the words "or manufacturing margarine".

4. Subsection (1) of section 8 of the principal Act is amended by deleting the passage "1922-1939" and substituting the passage "1973".

Section 8
amended.

5. Subsection (2) of section 11 of the principal Act is amended by deleting the passage "Fifty pounds, and also a daily penalty of two pounds" in lines four and five and substituting the passage "Two hundred dollars, and also a daily penalty of twenty dollars".

Section 11
amended.

Section 12
amended.

6. Section 12 of the principal Act is amended by deleting the words "Fifty pounds" in the last line and substituting the words "Two hundred dollars".

Section 13
amended.

7. Subsection (2) of section 13 of the principal Act is amended by deleting the words "One hundred pounds" in the last line and substituting the words "Five hundred dollars".

Section 14
repealed and
re-enacted.

8. Section 14 of the principal Act is repealed and re-enacted as follows—

Margarine
manufac-
turers and
dealers to be
licensed.

14. (1) A person shall not engage in the manufacture of any type of margarine—

- (a) unless he holds a license under this Act authorizing him to manufacture margarine of that type;
- (b) on any premises other than those specified in the license by which he is authorized to manufacture that type of margarine;
- (c) in contravention of any term or condition of the license by which he is authorized to manufacture that type of margarine.

(2) A person shall not act or carry on business as a dealer unless he holds a margarine dealer's license issued under this Act.

(3) Any person who in any respect contravenes this section shall be guilty of an offence.

Penalty—Five hundred dollars and in addition, where the offence is of a continuing nature, a daily penalty of fifty dollars per day for every day or part of a day on which the offence is committed. .

9. Section 15 of the principal Act is amended— Section 15 amended.

(a) by adding after the word “shall” in line two of subsection (1) the passage “, in the case of an application for a license to manufacture margarine,”; and

(b) by deleting paragraph (i) of the proviso to subsection (2) and substituting the following paragraph—

(i) the Minister shall not refuse an application for a margarine dealer’s license made by a person who is at the time of applying for a margarine dealer’s license or has been within twelve months of that time, the holder of a license under the Dairy Products Marketing Regulation Act, 1934 authorizing him to deal in margarine; and .

10. Section 18 of the principal Act is repealed and re-enacted as follows— Section 18 repealed and re-enacted.

18. The Minister may grant the following classes of licenses authorizing the manufacture of margarine, namely— Classes of manufacturing licenses.

(a) cooking margarine licenses;

(b) manufacturing margarine licenses;
and

(c) table margarine licenses,

and any license so granted authorizes the person to whom it is granted to manufacture margarine of the type for which it is granted, subject to this Act and to any terms and conditions specified therein. .

11. Section 19 of the principal Act is amended by deleting the words “five pounds” in lines two and three and substituting the words “five hundred dollars”. Section 19 amended.

Section 20
repealed.

12. Section 20 of the principal Act is repealed.

Section 24
amended.

13. Subsection (1) of section 24 of the principal Act is amended by deleting the words "or section twenty-six".

Section 25
repealed and
re-enacted.

14. Section 25 of the principal Act is repealed and re-enacted as follows—

Control of
amount of
table
margarine
to be manu-
factured.

25. (1) The Minister—

- (a) shall by notice published in the *Government Gazette* not later than the first day of December in any year, declare the maximum quantity of table margarine which holders of table margarine licenses, taken in the aggregate, may manufacture in the period of twelve months commencing on the next succeeding first day of January;
- (b) may by further notice so published in the *Government Gazette* at any time amend any previous notice published under this subsection declaring the maximum quantity of table margarine which holders of table margarine licenses, taken in the aggregate, may manufacture, but not so as to reduce that maximum quantity.

(2) The Minister shall by endorsement made on each table margarine license specify the maximum quantity of table margarine which that holder is authorized to manufacture during the currency of the license and may by subsequent endorsement vary that quantity but not so as to reduce that quantity.

(3) Any endorsement under subsection (2) of this section may, in addition to specifying the maximum quantity which the holder of a table margarine license may manufacture during the currency of that license, also

specify the maximum amounts of table margarine which the holder of the license is authorized to manufacture monthly or quarterly during the currency of the license.

(4) It is a condition of any table margarine license issued under this Act that the holder does not in any period manufacture a quantity of table margarine exceeding the quantity specified under subsection (2) or subsection (3) of this section in relation to that period.

15. Section 25A of the principal Act is repealed and re-enacted as follows—

Section 25A
repealed and
re-enacted.

25A. Notwithstanding the provisions of section twenty-five of this Act—

Special
provisions
relating to
maximum
quantities
of table
margarine
to be manu-
factured
during 1973.

- (a) the maximum quantity of table margarine which holders of table margarine licenses, taken in the aggregate, may manufacture in the period of twelve months commencing on the first day of January, 1973, is 1423 tonnes;
- (b) the Minister shall, as soon as practicable after the coming into operation of section fifteen of the Margarine Act Amendment Act, 1973, by notice in writing served on each holder of a table margarine license, specify the maximum quantity of table margarine which that manufacturer may manufacture during the period of twelve months commencing on the first day of January, 1973; and
- (c) it is a condition of each table margarine license in force under this Act during the period of twelve months commencing on the first day of January, 1973, that the holder does not manufacture a quantity of table margarine exceeding the quantity specified in the notice served on him pursuant to paragraph (b) of this section.

Section 26
repealed and
re-enacted.

16. Section 26 of the principal Act is repealed and re-enacted as follows—

Special
provisions
relating to
manufac-
turing
margarine.

26. Any person who—

- (a) packs any manufacturing margarine in lumps of less than six kilograms; or
- (b) sells any manufacturing margarine—
 - (i) in lumps of less than six kilograms; or
 - (ii) to a person who is not a prescribed person for the purposes of this section or a person within a prescribed class of persons for the purposes of this section,

shall be guilty of an offence.

Penalty: Five hundred dollars and, in the case of a continuing offence, an additional penalty of fifty dollars for each day on which the offence is continued after a conviction or order of any court in relation to the offence. .

Section 27
amended.

17. Subsection (3) of section 27 of the principal Act is amended by deleting the words "One hundred pounds" in line four and substituting the words "Five hundred dollars".

Section 28
amended.

18. Subsection (2) of section 28 of the principal Act is repealed and the following subsections substituted—

(2) Notwithstanding any provision of subsection (1) of this section, the Minister may grant a special permit to any person authorizing him to manufacture for export beyond Australia such quantity of margarine which contains butter fat as is specified in the permit.

(3) Every special permit granted under subsection (2) of this section—

- (a) shall contain such conditions as the Minister thinks proper to ensure that none of the margarine manufactured thereunder shall be sold or distributed within Australia, and such further conditions, including conditions relating to the composition of the products which may be manufactured, as may be prescribed; and
- (b) may be cancelled by the Minister upon breach of any condition thereof.

(4) No person shall manufacture or sell or have in his possession for sale, any margarine manufactured from fats and oils which are not edible fats and oils.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: Five hundred dollars and, in the case of a continuing offence, an additional penalty of fifty dollars for each day on which the offence is continued, after a conviction or order of any court in relation to the offence.

19. Subsection (2) of section 29 of the principal Act is amended by deleting the words "Fifty pounds" in line three and substituting the words "Two hundred dollars".

Section 29
amended.

20. Section 30 of the principal Act is amended—

Section 30
amended.

- (a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph—
 - (a) such margarine is made up in cube form and in lumps of not more than five hundred grams in weight; ;

(b) by repealing subsections (2) and (3) and substituting the following subsections—

(2) Any table margarine in which the proportion of cis-methylene interrupted polyunsaturated fatty acids present in the margarine is at least 40 parts per centum, and the proportion of saturated fatty acids does not exceed 20 parts per centum, of the total fatty acids and the ratio of polyunsaturated to saturated fatty acids is at least 2:1, may be labelled “Polyunsaturated Table Margarine” in the prescribed manner;

(3) No person shall pack, hold, sell or offer for sale any margarine contained in a package on which the term “polyunsaturated” appears unless the margarine complies with the requirements of subsection (2) of this section.

(4) No person shall use or make any reference to the term “polyunsaturated”, or imply that any margarine is “polyunsaturated”, in connection with margarine which does not comply with the requirements of subsection (2) of this section.

(5) No person shall manufacture or sell any table margarine which contains fats or oils of animal origin or derived from animal fats or oils.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: Five hundred dollars, and in the case of a continuing offence, an additional penalty of fifty dollars for each day on which the offence is continued after a conviction or order of any court in relation to the offence. .

21. Section 31 of the principal Act is repealed and re-enacted as follows—

Section 31
repealed and
re-enacted.

31. (1) No person shall sell (otherwise than for export beyond the Commonwealth of Australia) any cooking margarine unless such margarine is packed in a package on which appear in the prescribed manner the following words or expressions—

Special
provisions
relating to
cooking
and manu-
facturing
margarine

- (a) the brand of the margarine;
- (b) the name and address of the manufacturer of the margarine;
- (c) the quantity of margarine in the package;
- (d) the words “cooking margarine”; and
- (e) the expression “Beef fat and/or mutton fat form at least 90% of all fats and oils in this product”,

and on which no other words or expressions appear.

(2) No person shall sell (otherwise than for export beyond the Commonwealth of Australia) any manufacturing margarine unless such margarine is packed in a package on which appear in the prescribed manner the following words or expressions—

- (a) the brand of the margarine;
- (b) the name and address of the manufacturer of the margarine;
- (c) the quantity of margarine in the package;
- (d) the words “manufacturing margarine”; and
- (e) the expression “Beef fat and/or mutton fat form between 75 and 90% of all fats and oils in this product”;

and on which no other words or expressions appear.

(3) Any person who in any respect contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: Five hundred dollars. .

Section 32
repealed and
re-enacted.

22. Section 32 of the principal Act is repealed and re-enacted as follows—

Restrictions
on adver-
tisements.

32. (1) No person shall in any way in the packaging, labelling or advertisement for sale, or for any purpose connected therewith, of any margarine indicate or suggest, or use any matter which indicates or suggests, or which contains in relation to the margarine any word, brand, description, name or pictorial device which indicates or suggests—

- (a) that the margarine is a dairy product or contains any solids derived from the milk of the cow or is an equivalent of or substitute for butter or any other dairy product;
- (b) that any cooking or manufacturing margarine is an equivalent of or substitute for table margarine; or
- (c) that cooking margarine or manufacturing margarine are suitable for any purpose other than for cooking or manufacturing as the case may be.

(2) Without limiting the generality of subsection (1) of this section, any person who uses any of the words “milk”, “cream”, “butter” or any of their derivatives in relation to the advertisement for sale, or for any purpose of or connected with the advertisement for sale, of any margarine, commits an offence.

(3) For the purposes of this section—

“advertisement” includes any method of advertising or conveying information or making any claim with respect to margarine, whether orally or by writing or

pictorially or otherwise including any circular, catalogue, leaflet, pamphlet or other document, and any public announcement made orally or by writing or by means of producing or transmitting light or sound; and

“advertising matter” includes any advertisement and any matter whatsoever containing or in the nature of an advertisement.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: Five hundred dollars and in the case of a continuing offence, an additional penalty of fifty dollars for each day on which the offence is continued after a conviction or order of any court in relation to the offence. .

23. Section 34 of the principal Act is amended by deleting the words “one hundred pounds” in line three and substituting the words “two hundred and fifty dollars”. Section 34
amended.

24. Section 38 of the principal Act is amended— Section 38
amended.

(a) by adding after paragraph (d) the following paragraphs—

(da) prohibiting or regulating the addition of prescribed colouring substances or prescribed flavouring substances in the manufacture of cooking or manufacturing margarine;

(db) prohibiting the sale of cooking or manufacturing margarine to or in which any prescribed colouring substance or prescribed flavouring substance has been added or was an ingredient; ; and

(b) by deleting paragraph (i) and substituting the following paragraph—

- (i) penalties not exceeding two hundred dollars for the breach of any regulation and in the case of a continuing offence imposing an additional penalty of not more than twenty dollars for each day on which the breach continues after conviction; .
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