



ANNO DECIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1967

No. 70 of 1967

An Act to amend the Metropolitan Milk Supply Act, 1946-1957, the Food and Drugs Act, 1908-1962, and the Health Act, 1935-1967.

[Assented to 16th November, 1967]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

Short title,
commencement
and
arrangement.

1. (1) This Act may be cited as the "Statutes Amendment (Metropolitan Milk Supply, Food and Drugs and Health) Act, 1967", and shall come into operation on a day to be fixed by proclamation.

(2) This Act is arranged as follows :—

PART I.—PRELIMINARY, s. 1.

PART II.—AMENDMENT OF METROPOLITAN MILK SUPPLY ACT, 1946-1957, ss. 2-24.

PART III.—AMENDMENT OF FOOD AND DRUGS ACT, 1908-1962, ss. 25-26.

PART IV.—AMENDMENT OF HEALTH ACT, 1935-1967, ss. 27-28.

PART II.

PART II.AMENDMENT OF METROPOLITAN MILK SUPPLY
ACT, 1946-1957.

2. (1) The Metropolitan Milk Supply Act, 1946-1957, as amended by this Act, may be cited as the "Metropolitan Milk Supply Act, 1946-1967". Citation.

(2) The Metropolitan Milk Supply Act, 1946-1957, is in this Part referred to as "the principal Act".

3. Section 2 of the principal Act is amended by striking out the passage "Sections 46 to 52" and inserting in lieu thereof the passage "Sections 46 to 53". Amendment of principal Act, s. 2—
Division of Act.

4. Subsection (1) of section 3 of the principal Act is amended— Amendment of principal Act, s. 3—
Interpretation.

(a) by striking out the definition of "treat" and inserting in lieu thereof the following definition :—

"treat" means to pasteurize or to employ any other method or process designed to destroy any bacteria, organisms or micro-organisms in milk or cream, or to pack milk or cream in any form of container, whether in bottles or otherwise, for the purpose of retail distribution, and "treatment" has a corresponding meaning ; ;

and

(b) by inserting after the definition of "vehicle" the following definition :—

"vendor" means a person who sells milk or cream or offers milk or cream for sale (whether by wholesale or retail) or who delivers milk or cream to a purchaser for the purpose of or in pursuance of sale.

5. The following section is enacted and inserted in the principal Act after section 24 thereof :— Enactment of s. 24a of principal Act—

24a. (1) The holder of a licence shall, in accordance with the regulations, keep or cause to be kept such records and books of account as may be prescribed. Records, etc., to be kept by a licensee.

(2) At the request of any person employed by the board and acting under its written authority, the holder of a licence or any person who has custody of them shall produce or cause to be produced such records and books of account for the examination of that person and shall permit him to make copies thereof.

(3) The holder of a licence shall, as required by the regulations, forward to the board such periodical returns as may be prescribed.

(4) Any person who—

(a) fails to comply with subsection (1) of this section ;
or

(b) fails to comply with a request made under subsection (2) of this section ;
or

(c) fails to furnish a return under subsection (3) of this section or furnishes a return that is false or misleading in any material particular,

shall be guilty of an offence.

Amendment of
principal Act,
s. 25—
Secrecy of
information.

6. Section 25 of the principal Act is amended by striking out the passage “the last preceding section” and inserting in lieu thereof the passage “section 24 or section 24a of this Act”.

Repeal of
heading.

7. The heading “*Licensing of Producers and Treatment Plants*” immediately preceding section 29 of the principal Act is struck out.

Amendment
of
principal Act,
s. 29—
Milk
producers’
licences.

8. Subsection (4) of section 29 of the principal Act is amended by inserting after the word “sell” the passage “by wholesale or retail”.

Amendment of
principal Act,
s. 30—
Milk treatment
licences.

9. Section 30 of the principal Act is amended—

(a) by inserting after the passage “treat any milk” in subsection (1) the passage “or cream” ;

(b) by striking out the passage “as whole milk” in subsection (1) ;

(c) by inserting after the passage “to treat milk” in subsection (2) the passage “or cream” ;

(d) by inserting after the passage “treat any milk” in subsection (3) the passage “or cream” ;

(e) by striking out the passage “as whole milk” in subsection (3) ;

and

(f) by inserting after subsection (3) the following subsection :—

(3a) The holder of a milk treatment licence shall not treat milk or cream otherwise than in accordance with this Act.

10. The following sections are enacted and inserted in the principal Act after section 30 thereof :—

Enactment of
ss. 30a-30e of
principal Act—

30a. (1) Except as provided by subsection (3) of this section, a person shall not sell or offer or agree to sell by wholesale or retail within the metropolitan area any milk or cream that has not been produced by him unless he holds a milk vendor's licence.

Milk
vendors
to be
licensed.

(2) Except as provided by subsection (3) of this section, a person shall not sell or offer or agree to sell by retail within the metropolitan area any milk or cream that has been produced by him unless he holds a milk vendor's licence in addition to a milk producer's licence.

(3) Subsections (1) and (2) of this section shall not apply to or in relation to any sale by retail of milk or cream or any offer or agreement to sell by retail milk or cream by a person duly licensed as a vendor of milk and cream under the Food and Drugs Act, 1908-1967, upon shop premises duly registered under that Act.

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

30b. (1) For the purposes of granting milk vendors' licences, the board may divide the metropolitan area into zones and define and alter each zone.

Zones.

(2) The board may grant milk vendors' licences with or without reference to a zone but where a licence is granted in respect of a zone, the board shall specify in the licence the zone in respect of which it was granted.

(3) The board may grant a milk vendor's licence to an applicant therefor subject to such terms and conditions specified therein as the board deems necessary to ensure that milk and cream are suitably stored and properly distributed and, without limiting the generality of the foregoing, may grant a licence subject to conditions—

(a) requiring the holder thereof to store all milk and cream prior to distribution upon premises specified by the board in the licence ;

and

(b) requiring the holder thereof to employ only such vehicles or vehicles of such a kind or type as may be approved in writing by the board for the purpose of transporting or distributing milk or cream.

(4) The holder of a milk vendor's licence granted in respect of a zone shall not sell by retail or in connection with any sale by retail deliver any milk or cream to any person except within the zone in respect of which the licence was granted.

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

Control of
quality.

30c. (1) The board may, by notice in writing served personally or by post on any person who has in his possession or control any milk or cream that is to be sold or offered for sale within the metropolitan area, require him to furnish particulars within his knowledge, information and belief of—

(a) the place from which and the person from whom he obtained the milk or cream ;

(b) the place at which and the person by whom the milk or cream was treated and the nature of the treatment to which it was submitted ;

and

(c) the conditions under which the milk or cream was stored and transported before and after treatment.

(2) For the purpose of determining whether milk or cream is fit for human consumption and complies with the prescribed standards, the board may, by notice in writing served personally or by post upon a person who has in his possession or control any milk or cream that is to be sold or offered for sale within the metropolitan area, require him to furnish such particulars in relation to the milk or cream and such samples thereof as the board may specify in the notice.

(3) A person upon whom a notice has been served under subsection (2) of this section shall not sell or otherwise dispose of any milk or cream referred to in the notice until the board has informed him in writing that the milk or cream is fit for human consumption and complies with the prescribed standards or until the expiration of twenty-four hours from the time at which the notice was served upon him, whichever is the earlier.

(4) The board may by notice in writing served personally or by post upon any person require him to cause any milk or cream in his possession or control that is to be sold or offered for sale within the metropolitan area to be treated by the holder of a milk treatment licence.

(5) A person, who contravenes this section, or who fails forthwith to comply with a notice served upon him under this section or who, when required by such a notice to furnish particulars, furnishes particulars that are, to his knowledge, false in any material particular, shall be guilty of an offence.

30d. (1) The holder of a milk vendor's licence shall not assign, transfer or otherwise deal with the licence except with the approval in writing of the board.

Licence not
to be
transferred,
etc.

(2) A person who contravenes this section shall be guilty of an offence.

30e. A person who, immediately before the commencement of the Statutes Amendment (Metropolitan Milk Supply, Food and Drugs and Health) Act, 1967, was licensed under the Food and Drugs Act, 1908-1962, as a vendor of milk and cream, and to whom a zone had been allotted under the Metropolitan Milk Supply Act, 1946-1957, shall be deemed for the purposes of this Act to be the holder of a milk vendor's licence granted under this Act in respect of that zone, until the expiry of the licence or until the thirtieth day of June, 1968, whichever is the earlier.

Transitional
provisions.

11. Section 31 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection :—

(1) Every application for a licence shall—

(a) be made in the manner and form prescribed ;

(b) specify the nature of all premises that the applicant proposes to use in connection with any business to be carried on in pursuance of the licence and where they are situated ;

and

(c) be accompanied by the appropriate fee. ;

and

(b) by inserting after subsection (2) the following subsection :—

(3) If an application is refused the fee shall be refunded to the applicant.

Amendment of
principal Act,
s. 31—
Applications
for licences
and fees.

Amendment of
principal Act,
s. 32—
Refusal of
licence.

12. Section 32 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsections :—

(4) The board may refuse an application for a licence if—

(a) the applicant has twice contravened or failed to comply with the terms or conditions of a licence previously granted to him under this Act ;

or

(b) the applicant whilst holding a licence, has, after being warned by the board, continued to contravene any industrial award or to pay wages below the living wage ;

or

(c) the applicant has been twice convicted of offences against this Act ;

or

(d) the applicant has been convicted of an indictable offence or any other offence that, in the opinion of the board, renders him unfit to hold a licence ;

(5) Forthwith upon receipt of an application for a milk vendor's licence or for approval of the transfer or assignment of a milk vendor's licence the board shall notify the Director General of Public Health in writing of the name and address of the applicant or the intended transferee or assignee and upon the advice of the Director General of Public Health that a person is suffering from an infectious or loathsome disease within the meaning of subsection (4) of section 30a of the Food and Drugs Act, 1902-1967, or that for any other reason a person is likely to contaminate milk or cream, the board shall—

(a) refuse an application by that person for a milk vendor's licence ;

or

(b) refuse an application for its approval of the transfer or assignment of a milk vendor's licence to that person ;

or

(c) cancel a milk vendor's licence granted, transferred or assigned to that person,

as the case may require.

Amendment of
principal Act,
s. 33—
Cancellation
and
suspension
of licence.

13. Section 33 of the principal Act is amended—

(a) by striking out paragraph (d) of subsection (1) and inserting in lieu thereof the following paragraphs :—

- (d) if milk or cream that the holder of the licence has produced, sold or offered for sale is not of the prescribed grade, standard or quality ;
- (e) if the holder thereof has been convicted of any indictable offence or any other offence that, in the opinion of the board, renders him unfit to hold a licence ;

and

(b) by inserting after subsection (2) the following subsection :—

(3) The board may cancel a milk producer's licence if, for a period of six months, the holder thereof has not carried on business in pursuance of the licence.

14. Section 37a of the principal Act is amended by striking out subsection (5) thereof. Amendment of s. 37a of principal Act.

15. The following section is enacted and inserted in the principal Act after section 38 thereof :— Enactment of s. 38a of principal Act—

38a. (1) The board may grant a licence on condition that the holder thereof may use only premises specified by the board in the licence (which may be the same as or different from premises specified therein pursuant to any other provision of this Act) as depots for the receipt storage or transmission of milk or cream or for any other purpose in connection with the business to be carried on in pursuance of the licence. Condition of licence.

(2) The board may at any time, by notice in writing served personally or by post on the holder of the licence, vary or revoke a condition made under subsection (1) of this section.

16. Section 39 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsections :— Amendment of principal Act, s. 39—

(1) Except as provided in subsection (1a) of this section, the holder of a licence and any premises specified therein under this Act shall not, in relation to any business carried on or anything done in pursuance of the licence be subject to— Exemption of holder of licence and premises from certain enactments.

(a) section 27 of the Food and Drugs Act, 1908-1967, or any regulation under paragraphs (6) or (11) of section 61 of that Act or any by-law or regulation referred to in section 63 of that Act ;

or

(b) any regulation under section 115 of the Health Act, 1935-1967,

(1a) Subsection (1) of this section shall not apply, operate or have effect to or in relation to any person in respect of any sale by retail of, or any offer or agreement to sell by retail, any milk or cream upon shop premises within the metropolitan area, or to or in relation to those shop premises.

Repeal of
s. 40 of
principal Act.

17. Section 40 of the principal Act is repealed.

Amendment of
principal Act,
s. 41—
Fixation
of prices.

18. Section 41 of the principal Act is amended—

(a) by striking out the passage “for milk and sweet cream produced by holders of milk producer’s licences, which prices” in paragraph (a) of subsection (1) and inserting in lieu thereof the passage “, either specifically or by reference to maximum and minimum prices, for milk and cream that is to be sold or offered for sale within the metropolitan area, which prices or maximum and minimum prices” ;

(b) by striking out the passage “produced by holders of milk producers licences” in paragraph (b) of subsection (1) and inserting in lieu thereof the passage “that is to be sold or offered for sale within the metropolitan area .” ;

and

(c) by striking out the word “sweet” three times occurring in subsection (1) as amended by paragraphs (a) and (b) of this section and once occurring in subsection (2).

Amendment of
principal Act,
s. 44—
Rights of
holders of
milk treatment
licences.

19. Subsection (3) of section 44 of the principal Act is amended by striking out the passage “one hundred pounds” and inserting in lieu thereof the passage “two hundred dollars”.

Amendment of
principal Act,
s. 46—
Regulations.

20. Section 46 of the principal Act is amended—

(a) by striking out the word “standards” in paragraph (d) and inserting in lieu thereof the passage “grades standards and quality” ;

(b) by inserting after paragraph (g) thereof the following paragraphs :—

- (g1) Prescribing the treatment to which milk or cream shall or may be submitted by the holder of a milk treatment licence and any matter or thing incidental thereto :
- (g2) Prescribing such matters and things as may be necessary or expedient to ensure that vendors and purchasers within the metropolitan area receive adequate supplies of milk and cream :
- (g3) Prescribing the hours between which the holders of milk vendors' licences may or may not deliver milk or cream to retail purchasers thereof :
- (g4) Prescribing generally or in relation to licences of any specified kind, the records and books of account to be kept by the holder of any licence or any specified kind of licence and the manner in which they are to be kept :
- (g5) Prescribing generally or in relation to licences of any specified kind the periodical returns to be forwarded to the board by the holder of any licence or any specified kind of licence and the manner in which they are to be prepared and forwarded to the board :
- (g6) Prescribing the nature of wording, lettering and other contents of labels that shall or may be affixed to any container of milk or cream that is to be sold or offered for sale within the metropolitan area :
- (g7) Prescribing or providing for such matters and things as may be necessary or expedient to facilitate the division of the metropolitan area into zones and the definition and alteration of zones and any matter or thing incidental thereto ; ;

(c) by striking out the passage "and supply of milk and cream for consumption within the metropolitan area" in paragraph (j) and inserting in lieu thereof the passage "and storage of milk and cream that is to be sold or offered for sale within the metropolitan area" ;

(d) by inserting after paragraph (j) the following paragraph :—

(j1) Regulating the supply and delivery of milk and cream to vendors and to retail purchasers within the metropolitan area ;;

and

(e) by striking out the passage “fifty pounds” in paragraph (k) and inserting in lieu thereof the passage “one hundred dollars”.

Repeal of
s. 46a of
principal Act.

21. Section 46a of the principal Act is repealed.

Amendment of
principal Act,
s. 49—
Penalty.

22. Section 49 of the principal Act is amended by striking out the passage “one hundred pounds” and inserting in lieu thereof the passage “two hundred dollars”.

Amendment of
principal Act,
s. 51—
Evidentiary
provision.

23. Subsection (2) of section 51 of the principal Act is amended by striking out paragraph (a) and inserting in lieu thereof the following paragraphs :—

(a) that any milk or cream was or was not produced, treated, sold or offered for sale by the holder of a licence under this Act ;

(a1) that any milk or cream was sold or delivered within or outside any specified zone ;.

Enactment of
s. 53 of
principal Act—

24. The following section is enacted and inserted in the principal Act after section 52 thereof :—

Promotion
of the sale
of milk and
cream.

53. (1) The board may, by itself or in conjunction with other persons promote the sale of milk and cream by advertisement or such other means as it thinks fit, and the costs of such promotion shall, for the purposes of this Act, be deemed to be included in the costs of the administration of this Act.

(2) The board and any person who joins with the board in promoting the sale of milk and cream, shall not in relation to that promotion be subject to any regulation made under paragraph (13) of section 61 of the Food and Drugs Act, 1908-1967.

PART III.

PART III.

AMENDMENT OF FOOD AND DRUGS ACT, 1908-1962

25. (1) The Food and Drugs Act, 1908-1962, as amended by this Act, may be cited as the "Food and Drugs Act, 1908-1967". Citation.

(2) The Food and Drugs Act, 1908-1962, is in this Part referred to as "the principal Act".

26. Section 27 of the principal Act is amended—

(a) by striking out the passage " : Provided that this subsection shall not apply to milk or cream carried or sent to the metropolitan area, and every vendor of milk or cream who is registered in any district outside the metropolitan area shall, on demand, be registered by the Metropolitan County Board without any charge or fee for such registration" in subsection (3) and inserting in lieu thereof the passage "but this subsection does not authorize any person to do any act or thing in contravention of or exempt any person from complying with any provision of the Metropolitan Milk Supply Act, 1946-1967" ;

Amendment of
principal Act,
s. 27—
Licensing of
milk and
cream
vendors.

(b) by inserting after subsection (3) the following subsection :—

(3a) In relation to any milk or cream produced by the holder of a milk producer's licence granted under the Metropolitan Milk Supply Act, 1946-1967, but not otherwise, the holder of that licence shall be deemed to be licensed as a vendor of milk and cream and any premises specified in the licence shall be deemed to be registered by the local authority of the district or county district wherein he carries on business in pursuance of the licence. ;

and

(c) by inserting after the passage "than those mentioned in this section" in subsection (7) the passage "or than as required by the Metropolitan Milk Supply Act, 1946-1967".

PART IV.

PART IV.

AMENDMENT OF HEALTH ACT, 1935-1967

Citation.

27. (1) The Health Act, 1935-1967, as amended by this Act, may be cited as the "Health Act, 1935-1967".

(2) The Health Act, 1935-1967, is in this Part referred to as "the principal Act".

Amendment of
principal Act,
s. 115—
Registration
and licensing
of dairies and
regulations.

28. Section 115 of the principal Act is amended by inserting thereafter (the whole of the present provisions thereof being designated subsection (1) thereof) the following subsection:—

(2) In relation to the production of any milk or cream by the holder of a milk producer's licence under the Metropolitan Milk Supply Act, 1946-1967, and the sale of any milk or cream so produced, but not otherwise, the holder of that licence shall be exempt from the operation—

(a) of any regulation under paragraph (a) of subsection (1) of this section ;

(b) of any regulation under paragraph (b) of subsection (1) of this section that would, except for this subsection, require the registration of the premises specified in the milk producer's licence ;

and

(c) of any regulation under paragraph (f) of subsection (1) of this section,

but this subsection shall not be construed as limiting or affecting any exemption that the holder of the milk producer's licence enjoys under section 39 of the Metropolitan Milk Supply Act, 1946-1967.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Governor's Deputy.