



Republic of Namibia
Annotated Statutes

Dairy Industry Act 30 of 1961 (SA), as it relates to margarine and margarine factories

(SA GG 6673)

came into force in South West Africa, only in so far as it relates to margarine and margarine factories, on 16 June 1972 when the amendments made by Act 32 of 1972 came into force (see section 35A of Act)

APPLICABILITY TO SOUTH WEST AFRICA: The Act was applied to South West Africa only in so far as it relates to margarine. Section 1, as amended by Act 32 of 1972, defines “Republic” as including the territory “in relation to margarine”; the “territory” is defined as “the territory of South West Africa, including the Eastern Caprivi Zipfel”. Section 35A, inserted by Act 32 of 1972, states “This Act, and any amendment thereof which may be made from time to time, in so far as it relates to margarine or to a margarine factory, shall apply also in the territory.”

TRANSFER OF ADMINISTRATION TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, dated 20 December 1977. Section 3(1) of the transfer proclamation excluded section 13 of the Act (which deals with the sale of falsely marked dairy produce) from the operation of section 3(1) of Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that in this section “Republic” retained the meaning it was given in the definition section of the Act. There were two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Dairy Industry Amendment Act 37 of 1983* (RSA GG 8662) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* (RSA GG 10438) – neither of which was applicable to South West Africa because neither was made expressly so applicable.

as amended by

RSA Proclamation R.21 of 1961 (RSA GG 36)

under the authority of section 28(1) of Act 30 of 1961;

came into force on date of publication: 7 July 1961

RSA Proclamation R.293 of 1964 (RSA GG 943)

under the authority of section 28(1) of Act 30 of 1961;

came into force on date of publication: 6 November 1964

Dairy Industry Amendment Act 34 of 1965 (RSA) (RSA GG 1079)

came into force on date of publication: 7 April 1965

Dairy Industry Amendment Act 1 of 1969 (RSA) (RSA GG 2287)

brought into force on 1 July 1969 by RSA Proc. R.134/1969 (RSA GG 2406)

Marketing Amendment Act 52 of 1969 (RSA) (RSA GG 2384)

came into force on date of publication: 7 May 1969

RSA Proclamation R.158 of 1970 (RSA GG 2733)

under the authority of section 28(1) of Act 30 of 1961;

came into force with effect from 1 July 1970 (as stated in the Proclamation)

Dairy Industry Amendment Act 96 of 1971 (RSA) (RSA GG 3212)

came into force on date of publication: 16 July 1971

RSA Proclamation R.194 of 1971 (RSA GG 3238)

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under the authority of section 28(1) of Act 30 of 1961;
came into force with effect from 30 September 1971 (as stated in the Proclamation)
Dairy Industry Laws Amendment Act 32 of 1972 (RSA) (RSA GG 3492)
brought into force on 16 June 1972 by RSA Proc. R.148/1972 (RSA GG 3565)
Dairy Industry Amendment Act 7 of 1976 (RSA) (RSA GG 5015)
brought into force on 1 July 1976 by RSA Proc. R.103/1976 (RSA GG 5161)
**Importation of Margarine Amendment
Proclamation, AG 32 of 1978 (OG 3754)**
came into force on date of publication: 24 May 1978
Dairy Industry Amendment Act 6 of 1997 (GG 1685)
came into force on date of publication: 22 September 1997

ACT

To consolidate and amend the laws relating to the registration of dairy premises, the marking of dairy produce and the regulation of certain other matters in connection with the dairy industry and to amend the Dairy Industry Control Act, 1930.

*(Afrikaans text signed by the Governor-General)
(Assented to 20th April, 1961)*

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Schedule: REGULATIONS

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

[Act 34 of 1965 makes the following substitutions throughout the Act:

- * "Republic" for "Union"; and
- * "State President" for "Governor-General".]

Definitions

1. In this Act, unless the context otherwise indicates -

"board", in relation to the manufacture of margarine in the territory, means the Dairy Industry Control Board established by the Dairy Industry Control Ordinance, 1962 (Ordinance No. 29 of 1962), of the territory, and, in relation to any other matter, means the Dairy Board established by Proclamation No. R.25 of 1972;

**[The definition of "board" is substituted by Act 32 of 1972.
The Dairy Industry Control Ordinance 29 of 1962 was repealed by the Dairy Industry Control Ordinance Repeal Act 21 of 1982 (OG 4731). RSA Proc. R.25 of 1972 (RSA GG 3384) is a "Scheme for regulating the marketing of dairy products" issued in terms of the Marketing Act 59 of 1968; this Act applied to South West Africa and is still in force in Namibia.]**

"brand", in relation to any article, when used as a verb, means the placing on such article of any mark, representation, designation or description and, when used as a noun, means any mark, representation, designation or description appearing upon or used in connection with any dairy produce;

"butterfat" means the pure fat of milk;

"casein" means the protein material precipitated in skim milk by means of -

- (a) acid, either added to such milk or formed therein by souring; or
- (b) the addition of rennet or any other suitable enzyme thereto;

"casein factory" means any premises used for the manufacture or processing of casein but does not include premises on which the owner thereof manufactures casein from skim milk derived solely from his own cows, or where the owner thereof processes casein for his own use;

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“cheese” means the product obtained by the draining of coagulated milk, cream, skim milk or a mixture of two or more of the said products, but does not include soft cheese normally consumed in a fresh state;”;

[definition of “cheese” substituted by Act 34 of 1965]

“cheese factory” means any premises used for the manufacture of cheese but shall not include a farm cheese factory;

“cheese spread” means the product obtained by melting and emulsifying into a homogeneous plastic mass quantities of one or more varieties of cheese with or without the addition of spices, herbs, food products, emulsifying agents, flavouring substances or a permitted preservative;

[definition of “cheese spread” inserted by Act 34 of 1965]

“condensed milk factory” means any premises used for the manufacture of condensed milk;

“cream depot” means any premises used for the collection and grading or testing of cream intended for dispatch to a creamery which is registered or required to be registered;

“creamery” means any premises used for the manufacture of butter, but does not include such premises if the owner thereof, other than a co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939), a company registered under any law providing for the registration of companies, or a partnership or other association of two or more persons, uses cream derived solely from his own cows for such manufacture;

[The definition of “creamery” is substituted by Act 34 of 1965. Co-operatives in South West Africa were governed by the Co-operative Societies Ordinance 15 of 1946, which has been replaced by the Co-operatives Act 23 of 1996.]

“creamery butter” means butter manufactured in a creamery;

“dairy produce” means milk, sterilised milk, condensed milk, milk powder, skim milk, skim milk powder, casein, cream, butterfat, buttermilk powder, butter, cheese, process cheese, cheese spread, and includes margarine and all substitutes for butter made from vegetable or animal fats, or from a combination of vegetable and animal fats;

[definition of “dairy produce” substituted by Act 34 of 1965]

“department” means the Department of Agricultural Economics and Marketing;

“farm butter” means any butter made elsewhere than in a creamery;

“farm cheese” means cheese manufactured in a farm cheese factory;

“farm cheese factory” means any premises on which the owner thereof manufactures farm cheese from milk derived solely from his own cows: Provided that not more than seventy-five gallons of milk are used on any one day for the purposes of such manufacture;

“grade”, when used as a verb, means the classification of dairy produce according to quality, and “grading” and “graded” shall have corresponding meanings, and when used as a noun, “grade” means the quality class of any dairy produce;

“inspector” means a person appointed as inspector under section *ten*;

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“margarine” means any substance in imitation or form of butter, whether described as margarine or by any other name or designation, whereof the consistency is substantially similar to that of butter and which has been manufactured mainly from any one or more vegetable or animal fats or oils, but does not include any single fat sold as such fat;

[definition of “margarine” substituted by Act 34 of 1965]

“margarine factory” means any premises used for the manufacture of margarine;

“milk” means milk from a cow;

“milk depot” means any premises used for the collection and sampling of milk intended for dispatch to premises which are registered or required to be registered;

“milk powder” means the powder obtained by the removal of water from milk or partially-skimmed milk and includes full-cream dried milk, full-cream milk powder, half-cream dried milk, and half-cream milk powder;

“milk powder factory” means any premises used for the manufacture of milk powder;

“Minister” means the Minister of Agricultural Economics and Marketing;

“owner” includes a part owner or co-owner and the owner’s agent or representative and, in relation to any premises registered or required to be registered, or in relation to a farm cheese factory, the occupier thereof or the person having the control or management thereof;

“package” means anything in which dairy produce is contained or enclosed;

“prescribed” means prescribed by regulation;

[definitions of “process butter” and “process butter factory” deleted by Act 34 of 1965]

“process cheese” means the same as cheese spread;

[definition of “process cheese” substituted by Act 34 of 1965]

“process cheese factory” means any premises used for the manufacture of process cheese or cheese spread;

[definition of “process cheese factory” substituted by Act 34 of 1965]

“registered” means registered under this Act and “registration” shall have a corresponding meaning;

“regulation” means a regulation made in terms of section *twenty-nine* or in force in terms of section *thirty-five* and includes a regulation contained in the Schedule;

“Republic”, in relation to margarine, includes the territory;

[definition of “Republic” inserted by Act 32 of 1972]

“scheme” means the Dairy Products Marketing Scheme promulgated by Proclamation No. 183 of 1954 under the provisions of the Marketing Act, 1937 (Act No. 26 of 1937);

**[The Marketing Act 26 of 1937 was repealed by the RSA Marketing Act 59 of 1968,
which was made applicable to South West Africa.]**

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“Secretary” means the Secretary for Agricultural Economics and Marketing;

[definition of “Secretary” inserted by Act 7 of 1976]

“sell” includes to offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale and an exchange or any disposal for any consideration whatever;

“skim milk powder” means the powder obtained by the removal of water from skimmed or separated milk and includes non-fat dry milk, dried skim milk, defatted dried milk and defatted milk powder;

“skim milk powder factory” means any premises used for the manufacture of skim milk powder;

“sterilised milk” means milk which has been subjected to heat treatment whereby such milk is rendered free from viable micro-organisms;

“sterilised milk plant” means any premises used for the production of sterilised milk;

“territory” means the territory of South-West Africa, including the Eastern Caprivi Zipfel;

[definition of “territory” inserted by Act 32 of 1972]

“this Act” includes the regulations.

[The full stop after the definition of “this Act” should be a semicolon
now that it is no longer the last definition in the list.]

“white margarine” means margarine other than yellow margarine;

[definition of “white margarine” inserted by Act 96 of 1971]

“yellow margarine” means margarine whereof the colour, measured in terms of the Lovibond tintometer scale, contains more than one degree of yellow, or of yellow and red collectively.

[definition of “yellow margarine” inserted by Act 96 of 1971]

Application of Act

2. (1) Save as is provided in sections *eleven* and *fifteen*, the provisions of this Act shall not apply in respect of dairy produce that is intended for consumption on the premises whereon it is produced, processed or manufactured and is not sold.

(2) Save as is provided in section *eleven*, the provisions of this Act shall not apply in respect of milk, cream or skim milk intended for consumption without previous sterilization or conversion into any other form or substance within the area of jurisdiction of any local authority, or in respect of any premises in such area whereon such milk, cream or skim milk is produced or received, if and so long as within such area any law, or by-law or regulation made under such a law, is in force for the prevention of adulteration of milk, cream or skim milk or for safeguarding the health of the consumers thereof: Provided that, if the Minister is satisfied, after a report from the medical officer of health for the Republic, that the provisions of any such law, by-law or regulation are not being effectively enforced within such area by the authority responsible for the enforcement thereof, the State President may, by proclamation in the *Gazette*, declare that the provisions of this Act, or so much thereof as he may deem necessary, shall apply within such area in respect of such milk, cream or skim milk.

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(3) Nothing in this Act contained shall be construed as in any way repealing or affecting the provisions of any law relating to adulteration of articles of diet or any by-law or regulation made under such law, but the provisions of this Act shall be construed as being in addition to, and not in substitution for, the provisions of any such law, by-law or regulations: Provided that no provision of any such law expressly making any warranty or any other fact whatever a defence to any charge under such law shall apply in respect of any charge under this Act.

Use of certain premises prohibited unless registered

3. No person shall use any premises -
- (a) as a cheese factory, condensed milk factory, creamery, cream depot, milk depot, milk powder factory, margarine factory, process cheese factory or skim milk powder factory; or
 - (b) as from a date to be fixed by the State President by proclamation in the *Gazette*, as a casein factory or a sterilized milk plant,

unless such premises are registered with the department in the manner prescribed.

[section 3 substituted by Act 34 of 1965]

Registration

4. (1) Any person who desires any premises to be registered shall make application therefor in the prescribed form to the department and shall in connection therewith pay any fee that may be prescribed.

(2) If the Minister is satisfied that the requirements of this Act and of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), or, in relation to the territory, the Factories, Machinery and Building Works Ordinance, 1952 (Ordinance No. 34 of 1952), of the territory, in respect of any such premises have been complied with, he shall, subject to the provisions of subsection (3) and of section 6, cause a certificate of registration to be issued to the applicant.

[Subsection (2) is substituted by Act 32 of 1972. The Factories, Machinery and Building Work Ordinance 34 of 1952 was repealed by the Labour Act 6 of 1992, which has been replaced by the Labour Act 11 of 2007.]

- (3) The Minister may in his discretion -
- (a) direct that an application for the registration of premises as a margarine factory be refused or attach such conditions to the registration of any such factory as he may deem fit;
 - (b) notwithstanding any provision of this Act, on the recommendation of the board prohibit or refuse the registration of any premises referred to in section *three*, if such premises are situated in an area where there are, in his opinion, sufficient other such institutions to absorb the cream and milk produced in that area under conditions satisfactory to the producers thereof.

[paragraph (b) amended by Act 1 of 1969]

Renewal of certificate of registration

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5. (1) A certificate of registration shall expire on the thirtieth day of June next succeeding the date of issue, but may be renewed annually with effect from the first day of July.

(2) Application for the renewal of a certificate of registration shall be made in the prescribed form within the period of thirty days immediately preceding the date of expiry thereof and shall be accompanied by any renewal fee that may be prescribed.

(3) If the Minister is satisfied that the requirements of this Act in respect of any such premises have been complied with, he shall, subject to the provisions of sub-section (4) and of section *six*, cause the relative certificate of registration to be renewed.

(4) The Minister may refuse the renewal of a certificate of registration if during the period of twelve months immediately preceding the date of expiry of such certificate, the owner of the premises concerned has been convicted on not less than three separate occasions of one or more contraventions of this Act.

Certain premises may not be registered

6. (1) No premises referred to in section *three* shall be registered and no certificate of registration which relates to any such premises, shall be renewed, unless such premises comply with such requirements as may be prescribed for the class of premises for which registration or the renewal of such certificate is desired.

[subsection (1) amended by Act 1 of 1969]

(2) No premises shall be registered as a condensed milk factory, cream depot, creamery, cheese factory, milk powder factory, milk depot, process cheese factory or skim milk powder factory, and no certificate of registration which relates to any such premises shall be renewed, unless the owner of such premises is registered with the board in terms of the scheme either as a producer of the dairy produce manufactured or to be manufactured on such premises or as a person dealing in the course of trade in relation to the dairy produce which is processed or is to be processed on such premises or from which such first-mentioned dairy produce is manufactured or is to be manufactured.

[subsection (2) substituted by Act 34 of 1965]

(3) No premises shall be registered as a cheese factory and no certificate of registration which relates to any such premises shall be renewed, unless there is at least one person employed full-time in such factory who is the holder of a certificate of proficiency in cheesemaking referred to in sub-section (2) of section *eighteen*: Provided that the Minister may grant exemption from this requirement in the case of a factory in which no cheddar cheese, no gouda cheese and no other cheese, which in his opinion closely resembles cheddar cheese or gouda cheese, is manufactured.

[subsection (3) substituted by Act 34 of 1965]

(4) After the thirtieth day of June, 1966, no premises shall be registered as a creamery and no certificate of registration which relates to any such premises shall be renewed unless there is at least one person employed full-time in such factory who is the holder of a certificate of proficiency in buttermaking referred to in subsection (2) of section *eighteen*;

[subsection (4) substituted by Act 34 of 1965]

(5)

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[subsection (5) deleted by Act 34 of 1965]

Registration numbers

7. (1) There shall be allotted to any premises which are registered, a registration number and the holder of the certificate of registration of such premises shall have the exclusive right to use that registration number for the purpose of designating any dairy produce produced, processed or manufactured on such premises.

(2) Every holder of a certificate of registration shall brand in the prescribed manner any dairy produce which has been produced, processed or manufactured on the premises to which such certificate relates and any package containing such dairy produce.

Cancellation of registration of a margarine factory

8. The Minister may at his discretion cancel the registration of any premises as a margarine factory -

- (a) if the owner thereof contravenes or fails to comply with any condition attached under section 4(3)(a) to such registration;
- (b) if a quantity of white margarine or a quantity of yellow margarine manufactured in that factory does not, in the opinion of the Minister, comply with the prescribed requirements relating to the ingredients of which white margarine or yellow margarine, as the case may be, may consist; or
- (c) if the quantity of white margarine or the quantity of yellow margarine manufactured in that factory under the authority of a permit referred to in section 14(1) during the period for which the permit in question is in terms of section 14(2) valid after the issue or a renewal thereof, exceeds the quantity of white margarine or the quantity of yellow margarine, as the case may be, which may be manufactured during the period in question under the authority of that permit in terms of a condition imposed under section 14(3) and specified in that permit; or
- (d) if a quantity of white margarine or a quantity of yellow margarine manufactured in that factory under the authority of any such permit, is manufactured from any other type or kind of oil or fat or from any other mixture of different types or kinds of oils or fats, than that from which white margarine or yellow margarine, as the case may be, may be manufactured under the authority of that permit in terms of a condition imposed under section 14(3) and specified in that permit.

[section 8 substituted by Act 1 of 1969 and by Act 96 of 1971]

Farm cheese factory

9. No premises shall be used as a farm cheese factory unless -
- (a) the owner thereof is registered with the board as a producer in terms of the scheme; and
 - (b) such premises comply with such requirements as may be prescribed in respect of farm cheese factories.

Appointment of analysts, bacteriological experts and inspectors

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10. (1) Subject to the provisions of sub-section (2), the Minister may from time to time appoint -

- (a) persons, qualified by technical training and possessing competent knowledge, skill and experience, to carry out microscopical, bacteriological or analytical examinations under or for the purposes of any provision of this Act; and
- (b) officers of the department or other persons as inspectors for the purposes of this Act.

(2) The Minister shall not so appoint any person that is engaged directly or indirectly, or has any pecuniary interest, in any trade or business connected with the dairy industry.

(3) If the Minister has so appointed any person a certificate stating that he has been so appointed shall be furnished to such person.

[subsection (3) substituted by Act 34 of 1965]

Powers of inspectors, analysts and bacteriological experts

11. (1) Subject to the provisions of this Act, an inspector may at all reasonable times enter any premises, place, vehicle or vessel wherein or whereon any dairy produce intended for sale is produced, processed, manufactured, stored or carried, and may -

- (a) inspect any such premises, place, vehicle or vessel, any utensil, apparatus or equipment or any water or substance thereon or therein, used or reasonably suspected of being used in connection with dairy produce;
- (b) for the purpose of inspection and of taking samples, open any package thereon or therein which contains or is reasonably suspected of containing dairy produce;
- (c) examine or grade any dairy produce thereon or therein in whatever receptacle or package it may be contained, and, without payment, take so much thereof or of any article or substance used or reasonably suspected of being used in connection with dairy produce as he may reasonably require as a sample for the purpose of testing, grading or analysing or having such dairy produce, article or substance tested, graded or analysed, and may in his discretion notify any person who has an interest in such examination of the result thereof;

[paragraph (c) substituted by Act 34 of 1965]

- (d) transmit or deliver to a person appointed under paragraph (a) of sub-section (1) of section *ten* for such examination as is in that section mentioned, any sample of dairy produce or of any other article or substance used or reasonably suspected of being used in connection with the production, processing or manufacture of dairy produce;
- (e) examine all books and documents relating to any premises registered or required to be registered: Provided that he shall not have any right of access to any secret document relating to the production, processing or manufacture of dairy produce.

[The full stop at the end of paragraph (e) should be a semicolon now that it is no longer the last paragraph in subsection (1).]

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- (f) seize any books and documents which he may examine under paragraph (e) and which may afford evidence of a contravention of the provisions of this Act.

[paragraph (f) inserted by Act 34 of 1965]

- (2) If, after or upon an inspection under this Act, an inspector is of opinion that -
- (a) any premises, place, vehicle, vessel, utensil, apparatus or equipment so inspected, is in an unclean or unwholesome condition or is otherwise unfit for the production, processing, manufacture, storage or carriage of dairy produce;
 - (b) any chemical, scale, balance, measure or apparatus used in testing dairy produce so inspected, is not in accordance with regulation or standard, or is incorrect or otherwise unfit for the use for which it is intended;
 - (c) any water or any other substance used thereon in connection with the production, processing or manufacture of dairy produce, is impure or unwholesome;
 - (d) any dairy produce is unfit for human consumption,

he may issue an order in writing under his hand addressed to the occupier or person having the apparent management or control of the premises, place, vehicle or vessel concerned without further naming or describing him in the order, and requiring -

- (i) such premises, place, vehicle, vessel, utensil, apparatus or equipment, as the case may be, forthwith to be cleaned, disinfected or otherwise rendered wholesome to his satisfaction;
- (ii) the use of such chemical, scale, balance, measure or apparatus to be discontinued until it has been made correct or otherwise fit for the use for which it is intended;
- (iii) the use of such water or other substance to be discontinued until it has been rendered fit or that an alternative satisfactory supply thereof be obtained;
- (iv) such dairy produce to be destroyed or disposed of to his satisfaction,

and may further by such written order prohibit the use of any such vehicle, vessel, utensil, apparatus, equipment or substance in connection with the carriage, production, processing, manufacture or storage, as the case may be, of dairy produce altogether or until the defects therein have been remedied to his satisfaction, or for such time specified in the order as he thinks necessary, or he may prohibit the removal from any such premises of any dairy produce for such time as he thinks necessary;

- (e) any person is affected with a disease of an infectious or contagious nature and is engaged in such duties that dairy produce is likely to be contaminated, he may order the suspension of such person from such duties, and shall report the circumstances and his action to the proper health officer and shall take such further steps as such health officer considers necessary;
- (f) any livestock on premises on which milk or cream is produced, is so diseased as to be likely to affect dairy produce injuriously, he shall report the circumstances to the proper State Veterinarian and on the latter's recommendation may prohibit the sale or use of milk from any such animal until a State Veterinarian has declared such animal free from any disease likely to affect dairy produce injuriously;

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- (g) the grade indicated on any dairy produce does not correctly represent the quality of such dairy produce, he shall -
- (i) in the case of dairy produce not enclosed in a package, cancel the grade mark and brand the correct grade thereon; or
 - (ii) in the case of dairy produce enclosed in a package, prohibit the sale of such dairy produce until it has been placed in a package bearing the correct grade of such dairy produce.

(3) Every order made or prohibition imposed by an inspector under this section, other than a prohibition referred to in sub-paragraph (ii) of paragraph (g) of sub-section (2), shall be in the prescribed form and a copy thereof shall, together with the report of such inspector on the matter, be transmitted to the Secretary for the department as soon as possible after the order or prohibition has been made or imposed and the Secretary may confirm, set aside or vary such order or prohibition as he may deem fit, and his determination thereon shall be final and conclusive.

(4) In the making or the carrying out of any order under this section an inspector shall, as far as is practicable, consult the proper health officer, if there is such an officer.

(5) Any person appointed in terms of paragraph (a) of subsection (1) of section *ten* to carry out microscopical, bacteriological or analytical examinations, may at all reasonable times enter any premises, place, vehicle or vessel wherein or whereon any dairy produce intended for sale is produced, processed, manufactured, stored or carried and without payment take such samples of any dairy produce thereon or therein, or of any article or substance used or reasonably suspected of being used in connection with dairy produce, as he may reasonably require for the purpose of testing such dairy produce, article or substance.

(6) Any cancellation, branding or prohibition referred to in paragraph (g) of sub-section (2), shall be subject to an appeal by or on behalf of the owner of such dairy produce in the manner prescribed, and the decision of the person or persons deciding the appeal shall be final and conclusive.

[subsection (6) substituted by Act 34 of 1965]

Incorrect statement on dairy produce

12. No person shall knowingly place upon any dairy produce or upon any package containing dairy produce any incorrect information as to the grade or quality of such produce or the place where, the time when or the person by whom it was produced, processed or manufactured or any information or representation which is misleading in any way whatsoever.

Prohibition of sale of dairy produce falsely marked

13. (1) No person shall sell any dairy produce which has been produced, processed or manufactured outside the Republic -

- (a) which is contained in a wrapper or other package and is not in bulk, otherwise than in the same wrapper or other package in which it was imported;
- (b) unless the name of the country of origin is clearly branded, in the manner prescribed in the Schedule to this Act -

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- (i) upon the wrapper in which such produce is contained, or, if it is not contained in a wrapper and is not in bulk, upon such produce; and
- (ii) upon every other package in which such produce is contained or upon a label attached to such package;
- (c) if it is contained in a package on which appears a brand or name under which any dairy produce produced, processed or manufactured in the Republic is commonly sold, or which is calculated to induce any person to believe that such dairy produce was produced, processed or manufactured in the Republic;
- (d) if upon such dairy produce or upon the wrapper or other package in which it is contained, or upon a label attached to such package, there appear any words or marks stating or implying that such dairy produce has been produced, processed or manufactured in the Republic.

(2) No person shall sell any dairy produce produced, processed or manufactured outside a registered creamery or cheese factory if upon such dairy produce or upon the wrapper or other package in which it is contained, or upon a label attached to such package, there appear words or marks stating or implying that such dairy produce has been produced, processed or manufactured in a registered creamery or cheese factory.

[Section 3(1) of the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, excluded section 13 from the operation of section 3(1) of Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that in this section "Republic" retained the meaning it was given in the definition section of the Act prior to Namibian independence.]

Prohibition of the manufacture of margarine except under a permit

14. (1) No person shall manufacture margarine except under the authority of a permit granted under subsection (3), or manufacture margarine otherwise than in accordance with the conditions (if any) imposed under that subsection and specified in such permit.

[subsection (1) substituted by Act 7 of 1976]

(2) Any such permit shall lapse on the thirtieth day of June following the date of the issue thereof but may be renewed annually with effect from the first day of July in accordance with the provisions of subsection (3).

- (3) The Secretary may in his discretion, after consultation with the board -
 - (a) grant or refuse any application for the issue or renewal of a permit for the manufacture of margarine;
 - (b) impose such conditions as he may deem fit on the manufacture of margarine under the authority of such permit, including conditions relating to the quantity of white margarine and the quantity of yellow margarine (if any) which may be manufactured under the authority of the permit in question during the period for which it is in terms of subsection (2) valid after the issue or a renewal thereof;
 - (c) when granting an application for the renewal of any such permit, alter or cancel any condition specified therein, or impose a new condition;

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- (d) cancel any such permit at any time if the holder thereof, or any person manufacturing margarine under the authority thereof, contravenes or fails to comply with a condition specified therein.

[subsection (3) amended by Act 96 of 1971 and substituted by Act 7 of 1976]

[section 14 substituted by Act 1 of 1969]

Prohibition of manufacture, sale and importation of margarine

15. (1) No person shall -

- (a) manufacture or sell margarine which does not as regards its ingredients, composition, consistency or flavour, or as regards the manner in which it is packed or marked, conform to the requirements prescribed;

[paragraph (a) substituted by Act 96 of 1971]

- (b) sell as margarine or under a name or description whereof the word “margarine” or “margarien” forms a part, any substance which does not conform to the said requirements;

- (c)

[paragraph (c) deleted by Act 96 of 1971]

- (d) import margarine into the Republic, except in so far as the importation thereof has been authorized in the manner prescribed, or otherwise than subject to the conditions upon which such importation has been so authorized;

- (e)

[paragraph (e) deleted by Act 96 of 1971]

- (f) for consumption by any person other than himself, the members of his household or his non-paying guests -

- (i) add to margarine any butterfat (whether in the form of butter or not); or
- (ii) otherwise than in the manufacturing of yellow margarine under the authority of a permit referred to in section 14(1), add to white margarine any colouring substance which gives to white margarine the appearance of yellow margarine,

except under the authority of such a permit or by virtue of authority conferred by regulation on a class of persons to which he belongs, and in accordance with the conditions imposed under section 14(3) and contained in the permit in question or the provisions of the regulations;

[paragraph (f) substituted by Act 96 of 1971]

- (g) manufacture margarine on the same premises as those on which butter is manufactured.

[paragraph (g) substituted by Act 34 of 1965]

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(2) The State President may, by proclamation in the *Gazette*, prohibit the importation of margarine into the Republic.

(3)

[subsection (3) substituted by AG 32 of 1978 and deleted by Act 6 of 1997]

Prohibition on sale of certain dairy produce in certain circumstances

16. (1) No person shall -

- (a) sell any class or type of dairy produce which does not conform to the requirements of this Act in respect of that class or type of dairy produce;
- (b) sell any class or type of dairy produce for which grades have been prescribed, unless such produce has been graded in accordance with such grades;
- (c) sell any dairy produce condemned by an inspector as unfit for human consumption: Provided that with the written consent of such inspector and subject to such conditions as may be prescribed, such dairy produce may be sold for any other purpose;
- (d) sell any milk or the cream of any milk which has been drawn from a cow which such person knows to be or suspects of being diseased;
- (e) sell any dairy produce manufactured from milk or cream derived from animals other than bovines, unless such dairy produce or the package containing such dairy produce is branded with the name of the kind of animal from which such milk or cream was derived;
- (f) sell any dairy produce, other than margarine, process cheese and cheese spread, which contains a preservative;

[paragraph (f) substituted by Act 34 of 1965]

- (g) sell butter otherwise than in an enclosed package;
- (h) sell farm butter unless the package wherein it is contained, is branded in the prescribed manner;
- (i) sell as milk, milk to which any substance has been added or from which any part of any of its constituents has been removed.

(2) For the purposes of sub-section (1), a person shall be presumed to be in possession for purposes of sale of dairy produce if it is stored or kept on his premises or elsewhere on his behalf, or has been or is in the course of being despatched from his possession or premises, whether on sale or otherwise, and the onus shall be on such person to prove that such dairy produce is not intended for sale.

Manner of sampling, weighing and testing of milk purchased on butterfat basis

17. Whenever the owner of premises which are registered -

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- (a) purchases milk for processing or manufacturing purposes on the basis of its compositional quality, he shall weigh, sample and test such milk in the manner prescribed;
- (b) purchases cream for conversion into butter, he shall -
 - (i) weigh, grade, sample and test such cream in the manner prescribed; and
 - (ii) deal in the manner prescribed with all cream considered as unfit by a cream grader certificated in terms of section *eighteen*, or by an inspector, for conversion into butter for sale for culinary purposes.

Certificates of proficiency in the testing and grading of milk or cream and in buttermaking and cheesemaking

18. (1) No person shall be employed in the testing of milk, or in the testing of cream for its butterfat content, or in the grading of milk or grading of cream, unless he is the holder of a certificate of proficiency in the testing or grading of milk or cream, as the case may be, issued in the prescribed manner by the Secretary of the department or a senior officer of the department authorized by him.

(2) Such Secretary or officer shall issue a certificate of proficiency in buttermaking or cheesemaking to any person who, in the manner prescribed, satisfies a panel of two persons, consisting of either an inspector and a person qualified by technical training and appointed by the said Secretary or officer for this purpose, or of two inspectors, or of two persons so appointed, jointly that he has a sufficient theoretical and practical knowledge of buttermaking or cheesemaking, as the case may be.

(3) The department shall keep a list of all holders of certificates issued under this section.

[section 18 substituted by Act 34 of 1965]

Cancellation of certificates of proficiency

19. (1) The Minister may cancel any certificate of proficiency issued under section *eighteen* if, after due enquiry, he is satisfied that the holder thereof -

- (a) has, during the immediately preceding period of two years, not been engaged in the grading or testing of milk or cream or in buttermaking or cheesemaking, as the case may be; or
- (b) is incompetent or negligent or unreliable in carrying out the grading or testing of milk or cream or in buttermaking or cheesemaking, as the case may be, or is otherwise not a fit person to hold the certificate concerned.

[subsection (1) substituted by Act 34 of 1965]

(2) If a person holding a certificate of proficiency in milk or cream testing or grading is convicted of an offence of contravening sub-paragraph (v) or (vi) of paragraph (a) of section *twenty-three*, the Secretary of the department shall forthwith cause such certificate to be cancelled and his name to be deleted from the list of certificate holders referred to in sub-section (3) of section *eighteen*.

[subsection (2) substituted by Act 34 of 1965]

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(3) Any person referred to in sub-section (2), may appeal to the Minister in writing for his reinstatement as a certificate holder and the Minister may, if he deems it expedient, cause a new certificate to be issued to him and his name to be replaced on the list of certificate holders referred to in sub-section (3) of section *eighteen*.

Testing and marking of certain equipment

20. (1) No person shall use any glassware or appliance for the testing of milk or cream for its butterfat content, unless such glassware or appliance complies with such requirements as may be prescribed.

(2) No person shall sell any such glassware or appliance unless it complies with such requirements.

(3) Such glassware and appliances as may be required to be examined and tested for compliance with the prescribed requirements, shall be so examined and tested by such persons and at such places as the Minister may from time to time approve, and such glassware and appliances as comply with the said requirements, shall be ineffaceably branded in the manner prescribed.

(4) No unauthorized person shall so brand any such glassware or appliance or place thereon any brand which may reasonably be supposed to indicate that such glassware or appliance complies with the standards prescribed.

Keeping of records

21. (1) The owner of any premises registered or required to be registered, shall keep a correct record of all dairy produce purchased, produced, processed, manufactured, stored and disposed of, in such form as the Secretary of the department or any senior officer of the department authorized by him, approves.

(2) The Secretary of the department or any senior officer of the department authorized by him, may direct the owner of any premises referred to in sub-section (1), to furnish the department once in every calendar month not later than the fifteenth day of that month, with a return on such form and in such manner as may be required by such Secretary or officer.

Use of letters smaller than the size prescribed

22. Notwithstanding anything in this Act contained, words required to be composed of letters of a particular size, may be composed of proportionately smaller letters when the package whereon they appear, is so small as to prevent the use of letters of the prescribed size.

Offences and penalties

23. Any person who -

(a) with intent to defraud -

(i) obliterates, defaces or alters an inspector's brand on dairy produce which has been inspected under this Act, or on any package containing such produce,
or

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- (ii) counterfeits any such brand or the registration number referred to in section *seven* or places upon any dairy produce or package containing dairy produce any such counterfeited brand or number, or
- (iii) places into any package branded after inspection under this Act any dairy produce, whether of the same or any other kind, which was not contained therein at the time of such inspection, or
- (iv) uses for the purpose of packing dairy produce, any package previously used for that purpose without effacing therefrom all previous brands relating to the grade, the identification of churn, vat or batch, or the date of production, processing or manufacture, or
- (v) being the holder of a certificate of proficiency in milk or cream testing, makes, states or enters in the test book an incorrect test result, or
- (vi) being the holder of a certificate of proficiency in milk or cream grading, classifies milk or cream in a grade other than that in which the milk or cream, as the case may be, should have been classified under this Act, or

[subparagraph (vi) substituted by Act 34 of 1965]

- (b) being in the employ of any manufacturer, packer or consigner of dairy produce -
 - (i) hires or lends the registration number or branding instruments of his employer to any other person, or
 - (ii) connives at or is a party to any fraudulent act in respect of such number or marking instruments, or
- (c) contravenes or fails to comply with any provision of section 14(1) or any condition attached to the registration of a margarine factory in terms of section 4(3)(a), or

[paragraph (c) substituted by Act 1 of 1969]

- (d) contravenes or fails to comply with any provision of section *three, nine, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, twenty* or *twenty-one*, or
- (e) uses in respect of any premises, whether or not registered under this Act, for the purpose of designating dairy produce produced, processed or manufactured at those premises, any registration number which has not been allotted to those premises under section *seven*, or
- (f) obstructs or hinders an inspector or any other person in the exercise of any power or the performance of any duty which such inspector or other person may be authorized or required to exercise or perform in terms of this Act, or

[The word “exercise” is misspelt in the Government Gazette both times that it appears in paragraph (f), as reproduced above.]

- (g) when required under this Act to give information to an inspector or other person referred to in paragraph (f), fails to give information which he may be lawfully required to give, or knowingly gives false information, or

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- (h) when required to carry out any written order given by an inspector under this Act, fails to carry out the terms of such order within the period prescribed thereby or by the inspector, or
- (i) fails to give any notice or render any return which under this Act it is his duty to give or render, or
- (j) in any application made in terms of this Act, knowingly makes or causes to be made a statement which is false in a material particular, or
- (k) falsely holds himself out to be a person appointed under section *ten*, or
- (l) incites, instigates, commands or procures any holder of a certificate of proficiency in milk or cream testing or in milk or cream grading to make, state or enter in the test book an incorrect test result or to classify milk or cream in a grade other than that in which the milk or cream should have been classified under this Act; or

[paragraph (l) substituted by Act 34 of 1965]

- (m) incites, instigates, commands or procures any employee to make any incorrect entry on any receipt for milk or cream required to be issued in terms of this Act,

shall be guilty of an offence and liable on conviction -

- (i) in the case of an offence referred to in paragraph (a), to the penalties prescribed by law for the crime of fraud;
- (ii) in the case of an offence referred to in paragraph (b), to a fine not exceeding one hundred rand;
- (iii) in the case of an offence referred to in paragraph (c), to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;

[paragraph (iii) substituted by Act 96 of 1971]

- (iv) in the case of an offence referred to in paragraph (d), if it is -
 - (aa) a contravention of section *three* or *nine*, to a fine not exceeding one hundred rand and to a further fine not exceeding ten rand for every day on which the offence continues;
 - (bb) a contravention of section *twelve*, *thirteen*, *seventeen*, *eighteen* or *twenty-one*, to a fine not exceeding one hundred rand;
 - (cc) a contravention of section *fifteen* or paragraph (l) or (m) of this section, to a fine not exceeding two hundred rand for a first conviction under the said section, and to a fine not exceeding four hundred rand for a second or subsequent conviction under the said section;
 - (dd) a contravention of paragraph (a), (b), (c), (f) or (i) of sub-section (1) of section *sixteen* or of section *twenty*, to a fine not exceeding two hundred rand; and

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- (ee) a contravention of paragraph (d), (e), (g) or (h) of sub-section (1) of section *sixteen*, to a fine not exceeding twenty rand;
- (v) in the case of an offence referred to in paragraph (e), (f), (g), (h), (i), (j) or (k), to a fine not exceeding twenty rand, and if it is an offence referred to in paragraph (e), (h) or (i), to a further fine not exceeding two rand for every day, on which the offence continues.

Penalties when not otherwise provided

24. Any person guilty of an offence against, or a contravention of, this Act, or of any default in complying with any provision thereof with which it is his duty to comply, shall, if no penalty is expressly provided for the offence, contravention or default, be liable on conviction to a fine not exceeding twenty rand.

Recovery of costs from person convicted

25. When any person is convicted of an offence against, or a contravention of, or default in complying with, any provision of this Act, the following costs shall be recoverable from him in addition to any penalty imposed:

- (a) The postage, railway carriage or other reasonable charge, if any, paid for transmitting, under this Act, to an inspector, analyst, tester or examiner any sample in connection with the charge on which such person was convicted; and
- (b) the fee, if any, charged under the prescribed tariff for analysing, examining or testing such sample.

Procedure for carrying out of order of inspector and recovery of costs and expenses thereof

26. (1) If any person required to carry out any written order given by an inspector under this Act, fails to carry out the terms of such order within the time fixed thereby or by the inspector, the magistrate of the district in which the premises, vehicle or vessel concerned is situate may, upon the application of the inspector, prohibit the use thereof by such person until the said terms have been carried out by him.

(2) If such person is convicted under this Act of failing to carry out the terms of such order, the court before which the conviction takes place shall, at the request of the inspector, enquire summarily and without pleadings, but in the presence of the accused, into the amount of the costs and expenses incurred by the inspector in connection with the order.

(3) Upon proof of the amount of such costs and expenses, the court shall give judgment therefor in favour of the inspector and against the accused, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such court: Provided that judgment shall not be given under this sub-section for an amount exceeding two hundred rand.

Certificate of examination admissible in evidence

27. (1) Any person appointed by the Minister under the provisions of paragraph (a) of sub-section (1) of section *ten* to carry out microscopical, bacteriological or analytical examinations under or for the purposes of this Act, shall furnish a certificate, in the prescribed form, of the results of each such examination carried out by him.

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- (2) (a) In any proceedings against any person for a contravention of any provision of this Act, a certificate furnished in terms of sub-section (1) by the appointed person who made the examination for the purpose of ascertaining such contravention, shall be *prima facie* evidence of the facts stated in the certificate, unless the accused has, not less than three days before the hearing of the charge against him, required that such appointed person be called as a witness.
- (b) If the accused requires such person to be so called, he shall bear the expenses incidental to such person being summoned and appearing as a witness, and before such person is so summoned the accused shall deposit with the registrar or clerk of the court in which the proceedings are pending such sum as may be sufficient to meet the said expenses, which sum shall be refunded to the accused if he is not convicted.
- (3) The accused, instead of requiring the attendance, as a witness, of the appointed person who made the examination, shall be entitled to put to him interrogatories approved by the court, and such interrogatories and the answers thereto shall be received in evidence in such proceedings.

Amendment of Schedule

28. (1) The State President may, by proclamation in the *Gazette*, make such amendments not being inconsistent with any provision of this Act, to the Schedule to this Act, whether by rescission or alteration of, or addition to, the regulations set out therein, as he may deem expedient.

(2) All such amendments shall be laid on the Tables of both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then in ordinary session or, if it is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

(3) Every such amendment shall be of force and effect unless or until both Houses of Parliament have, by resolution passed in the same session, requested the State President to rescind or vary the amendment, in which case it shall be forthwith rescinded or varied, as the case may be, by further proclamation in the *Gazette*.

Regulations

29. (1) The Minister may make regulations as to -

[introductory phrase of subsection (1) substituted by Act 7 of 1976]

- (a) the qualifications, powers and duties of inspectors and other persons appointed to exercise powers and perform duties under this Act;
- (b) the manner in which premises shall be registered;
- (c) the structure, sanitation, drainage, ventilation, lighting and equipment of, and accommodation to be provided in, premises registered or required to be registered, and the equipment, instruments, appliances and utensils to be used on such premises;
- (d) the manner in which any substance (other than dairy produce) derived from milk, shall be treated before its removal from any premises which are registered or required to be registered;

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- (e) the manner in which the owner of premises which are registered or required to be registered, shall brand dairy produce produced, processed or manufactured on such premises or the wrappers or other packages containing such produce;
- (f) the forms of application, registration certificates, marks, certificates of analysis or examination, reports, returns, notices, registers and of all other documents whatsoever to be used for the purposes of this Act;
- (g) the conditions upon which and the manner in which samples shall be taken for the purposes of inspection, analysis or examination under this Act and the mode of dealing with or disposing of such samples;
- (h) the aeration and cooling of dairy produce;
- (i) the use of preservatives and colouring or other foreign substances in dairy produce;
- (j) the disposal of condemned dairy produce;
- (k) the methods and manner of weighing, sampling and testing of dairy produce and the manner in which the results thereof shall be recorded;
- (l) grading and the manner of grading of dairy produce;
- (m) the charges which may be made for any grading or testing under this Act;
- (n) the examination of candidates for certificates of proficiency in grading and testing of dairy produce and in buttermaking and cheesemaking;

[paragraph (n) substituted by Act 34 of 1965]

- (o) the patterns of and standards for all glassware and appliances used for the testing of dairy produce;
- (p) standards for the composition, purity and quality of dairy produce, and the ingredients for any composition of such produce, or the type or kind of ingredient or the mixture of different types or kinds of ingredients from which such produce may be manufactured;

[paragraph (p) substituted by Act 96 of 1971 and by Act 7 of 1976]

- (q) the ingredients of and standards for rennet and colouring matter which may be used in butter, cheese or margarine, and conditions for the sale and use of such rennet or colouring matter;

[paragraph (q) substituted by Act 96 of 1971]

- (r) the manner of handling, transportation and storing of dairy produce intended for use or consumption by a person other than the producer, processor or manufacturer thereof;
- (s) the methods and manner of handling, cleaning, maintaining, storing or keeping of milking machines and dairy utensils;
- (t) the nature and quality of the various packages for dairy produce;

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- (tA) the particulars with which and the manner in which dairy produce or containers or packages containing dairy produce shall be marked or labelled;

[paragraph (tA) inserted by Act 96 of 1971]

- (u) the requirements with which premises used as a farm cheese factory and the equipment, instruments, appliances and utensils, used thereon, shall comply;
- (v) the time and manner in which an appeal under sub-section (6) of section eleven shall be lodged and prosecuted, the deposit to be lodged in connection with any such appeal, the circumstances under which such deposit or any part thereof may be refunded, the designation by any specified officer in the department or a person nominated by him of the person or persons by whom such an appeal shall be decided, and any other matter relating to such an appeal;

[paragraph (v) substituted by Act 34 of 1965]

- (w) any matter which is required or permitted to be prescribed by regulation; and
- (x) generally, any matter which he considers it necessary or expedient to prescribe in order that the objects and purposes of this Act may be better achieved, the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs.

(2) Different regulations may be made under subsection (1) with reference to different classes of persons and in such other respects as the Minister may decide.

[subsection (2) substituted by Act 7 of 1976]

(3) The regulations may prescribe penalties for any contravention or failure to comply therewith, not exceeding a fine of twenty rand or imprisonment for a period not exceeding fourteen days on a first conviction and fifty rand or imprisonment for a period not exceeding two months on a second or subsequent conviction.

Minister may delegate powers

30. The Minister may delegate to the Secretary or to any other senior officer of the department any of the powers conferred upon him by this Act.

31.

[section 31 deleted by Act 52 of 1969]

32.

[section 32 deleted by Act 52 of 1969]

33.

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[section 33 deleted by Act 52 of 1969]

Repeal of Act 63 of 1957

34. The Dairy Industry Act, 1957, is hereby repealed.

Savings

35. Any proclamation, regulation, notice, order, prohibition, authority or document issued, made, promulgated, given, granted or imposed and any other action taken under any provision of a law repealed by this Act shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, promulgated, given, granted, imposed or taken under the corresponding provisions of this Act.

Application of Act to South West Africa

35A. This Act, and any amendment thereof which may be made from time to time, in so far as it relates to margarine or to a margarine factory, shall apply also in the territory.

[section 35A inserted by Act 32 of 1972]

Short title and date of commencement

36. This Act shall be called the Dairy Industry Act, 1961, and shall come into operation upon a date to be fixed by the State President by proclamation in the *Gazette*.

Schedule

[The Schedule is amended by RSA Proclamation R.21 of 1961, RSA Proclamation R.293 of 1964, RSA Proclamation R.158 of 1970 and RSA Proclamation R.194 of 1971.]

REGULATIONS

1. (1) Upon the request of an inspector, every owner of premises which are registered or required to be registered, shall allow such inspector to make a list of the persons supplying dairy produce to him.

(2) Every such owner shall give to an inspector such personal assistance and information as he is capable of giving, to aid such inspector in any investigation concerning the quality of dairy produce.

2. No person shall deposit or keep any dairy produce intended for sale or supply for profit -

- (a) in any room used for domestic purposes;
- (b) in any place which might cause such produce to be unwholesome or injurious to health; or
- (c) in any place where goods or other materials likely to taint such produce or contaminate it with disease, are kept or permitted to be.

3. (1) All cans, utensils and packages, when actually containing dairy produce shall, as far as possible, be effectually protected or shielded from the heat of the sun.

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(2) The surfaces of all utensils, milking machines, separators, coolers or any other equipment coming into contact with milk or cream shall be thoroughly and effectively cleansed immediately after use, and suitable facilities shall be provided for the cleansing and storage of such equipment.

4. All cow-byres used for milking purposes must be kept in a clean and sanitary condition, and all milking operations must be carried out in a cleanly manner.

5. No person shall sell, or export any milk, or the cream of any milk drawn from a cow within six clear days of her calving, or until such time as the milk when boiled does not coagulate.

6. (1) (a) Every owner of premises which are registered or required to be registered, who procures or purchases skim milk, milk or cream shall reject all such skim milk, milk or cream delivered to him in a can or vessel which is not in a clean and wholesome condition and shall give notice in writing to the supplier of such rejection and the reasons therefor.

(b) Any such owner who accepts delivery of, and any person who supplies, cream or milk or skim milk contained in such a can or vessel, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty rand.

(2) (a) The owner of a cheese factory, casein factory or creamery shall not allow any whey or buttermilk to be conveyed from such factory or such creamery in any utensil which is being used to convey milk, cream or skim milk thereto.

(b) Any owner who contravenes the provisions of paragraph (a) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty rand.

(3) All milk and cream cans or vessels used in the transport of milk or cream or skim milk from the place of production to premises referred to in sub-section (1) of section *three* shall have the name and address of the producer legibly branded thereon, and all cans used for the conveyance of whey from a cheese factory or casein factory, or of buttermilk from a creamery, shall be branded "Wei" or "Karringmelk" or "Whey" or "Buttermilk", as the case may be.

7. The name of the country of origin which is in terms of section *thirteen* required to be branded upon dairy produce produced, processed or manufactured outside the Republic, or upon any wrapper or other package containing such dairy produce, or upon a label attached to any such package shall be printed -

(a) if such produce is contained in a wrapper or other package and weighs -

(i) not more than five pounds, in letters not less than one quarter of an inch square, face measurement; and

(ii) more than five pounds, in letters not less than one inch square, face measurement; and

(b) if such produce is not contained in a wrapper or other package in letters not less than half an inch square, face measurement.

8. The owner of a creamery or of a cheese factory who manufactures therein butter or cheese from cream or milk purchased on the basis of its butter-fat content shall, within three

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months after the end of every financial year of such creamery or cheese factory or within three months after the thirtieth day of June in every year, prepare a statement showing -

- (a) in the case of a creamery, the weight of butter (to within four decimals of a pound) made from every pound of butter-fat used in the manufacture of butter in that creamery during the said year or period; or
- (b) in the case of a cheese factory, the weight of green cheese (to within two decimals of a pound) made from every pound of butter-fat used in the manufacture of such cheese in that factory during the said year or period,

and shall, at the request of any person who, during that financial year or during the period of twelve months which ended on the said thirtieth day of June, supplied any cream or milk to such creamery or cheese factory, furnish such person with a copy of such statement.

9. (1) Any person to whom any statement referred to in regulation 8 was furnished may, within six months after the end of the period of three months referred to in that regulation during which such statement was or should have been prepared, request the Minister, in writing, to cause the correctness of that statement to be investigated.

(2) If the person requesting such investigation furnishes security to the satisfaction of the Minister for the payment of the cost of such investigation, the Minister may appoint any public accountant who is registered in terms of the provisions of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), to investigate the question whether such statement is or is not correct, and for that purpose to examine any book or document of whatever nature containing any data which may enable him to determine whether the said statement is or is not correct and to report the result of such investigation to the Minister.

(3) The Minister shall forward a copy of such report to the person at whose request the investigation was made.

(4) Any person who is in possession or custody of any book or document as aforesaid shall, at the request of the said accountant, forthwith deliver it to him in order that he may examine it, and make a copy thereof or an extract therefrom.

(5) The cost of such investigation shall be borne by the person at whose request it was made: Provided that if according to the report of the said accountant at least one-half per cent. more butter or cheese was made in the creamery or cheese factory in question from every pound of butter-fat used therein, than is set forth in such statement, the Minister shall recover the cost of such investigation from the creamery or cheese factory concerned.

10.

[Regulation 10 amended by RSA Proclamation R.21 of 1961, RSA Proclamation R.293 of 1964 and RSA Proclamation R.158 of 1970, and deleted by RSA Proclamation R.194 of 1971.]