



ANNO VICESIMO QUINTO

# GEORGII V REGIS.

A.D. 1934.

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## No. 2195.

An Act to amend the Food and Drugs Act, 1908.

[*Assented to, November 29th, 1934.*]

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

1. (1) This Act may be cited as the "Food and Drugs Act Short titles. Amendment Act, 1934".

(2) The Food and Drugs Acts, 1908 to 1928, and this Act may be cited together as the "Foods and Drugs Acts, 1908 to 1934".

(3) The Food and Drugs Act, 1908, is hereinafter referred to as "the principal Act" No. 968 of 1908.

2. This Act is incorporated with the other Acts mentioned Incorporation. in section 1, and those Acts and this Act shall be read as one Act.

3. (1) The definition of "drug" in section 5 of the principal Act is amended by inserting at the end thereof the words "and any laundry or toilet soap intended for sale to the public by retail, and absorbent cotton wool and surgical dressings" Amendment of principal Act. s. 5— Definitions.

(2) The definition of "food" in the said section is amended by striking out the words "or water" in the second line.

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Amendment of  
the principal  
Act, s. 15.

4. Section 15 of the principal Act is amended by inserting therein at the end of the paragraph relating to the election of members of the Board the following passage :—

Provided that if at any election no more candidates are nominated than there are seats to be filled the candidates nominated shall be deemed to have been elected and no vote shall be taken.

Enactment of  
s. 22A of the  
principal Act—

5. The following section is enacted and inserted in the principal Act after section 22 thereof :—

Offences in  
connection with  
the sale of food  
and drugs.

22A. (1) No person shall sell, expose for sale, or have in his possession for sale, any article of food or any drug which is not wholly in accordance with any particulars concerning it which are on or attached to any bottle, box, or other container whatever in which the food or drug is contained at or immediately prior to the time of sale, or at the time of exposure for sale, or whilst in possession for sale, as the case may be.

Penalty—Five pounds.

In this subsection the term “particulars” includes the name or other description or particulars of the person who manufactured, prepared, bottled, or packed an article of food or a drug.

(2) Where any person (in this subsection called the “purchaser”) demands any article of food or any drug, specifying the commodity required by reference to the name of the person who manufactured, prepared, bottled, or packed it, or by reference to the brand of any manufacturer, no person shall sell to the purchaser any food or drug, the whole or any part of which is manufactured, prepared, bottled, or packed (as the case may be) by any person other than the person named by the purchaser, or the whole or any part of which is not manufactured by the person whose brand was named by the purchaser: Provided that it shall be a defence to a charge under this subsection to show that the defendant expressly informed the purchaser at the time of sale that the commodity or part thereof, as the case may be, was manufactured, prepared, bottled, or packed by some person other than the person named by the purchaser or whose brand was named by the purchaser.

Penalty—Five pounds.

(3) This section shall not be held to restrict the meaning of any other provision of this Act, nor any provision of the Trade Marks Act, 1892.

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6. The principal Act is amended by inserting therein after section 26 the following section :—

Enactment of  
s. 26A of the  
principal Act—

26A. (1) No person shall—

Sale of drugs  
by automatic  
machines.

- (a) install any automatic machine for the sale or supply of any drug or medicine ;
- (b) permit or suffer any such automatic machine to be installed ;
- (c) sell or supply any drug or medicine by means of any automatic machine ; or
- (d) permit or suffer any person to purchase or to be supplied with or otherwise obtain any drug or medicine by means of any automatic machine.

(2) “ automatic machine ” means any machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier or his servant or agent at the time of the sale or supply.

7. The following section is hereby enacted and inserted in the principal Act after section 30 thereof :—

New section  
30A—

30A. (1) No person who is suffering from any infectious or loathsome disease, or who for any other reason is likely to contaminate any article of food or drug shall—

Employment of  
diseased  
persons in  
handling food  
and drugs.

- (a) handle any article of food or drug which is being sold or which is being offered, exposed, kept, stored, carried, delivered, or produced for sale ; or
- (b) be employed in connection with the sale or the offering, exposing, keeping, storing, carrying, delivering, or producing for sale of any food or drug.

Penalty—Five pounds.

(2) If any inspector suspects that any person is committing a breach of subsection (1) the inspector may by notice in writing under his hand notify that person of his suspicion.

(3) No person who has received such a notice shall thereafter—

- (a) handle any article of food or drug which is being sold or which is being offered, exposed, kept, stored, carried, delivered, or produced for sale :
- (b) be employed in connection with the sale or the offering, exposing, keeping, storing, carrying, delivering, or producing for sale of any food or drug,

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until he has produced to the inspector or local authority employing the inspector a certificate signed by a legally qualified medical practitioner that he is not suffering from any infectious, contagious, or loathsome disease, and is not for any other reason likely to contaminate any article of food or drug.

Penalty—Five pounds.

(4) In this section—

“infectious disease” means an infectious disease within the meaning of The Health Act, 1898:

“loathsome disease” means a disease proclaimed by the Governor on the advice of the Central Board of Health as a loathsome disease.

Amendment of principal Act, s. 41—  
Provision as to inspectors.

8. Section 41 of the principal Act is amended by striking out in the first and second lines thereof the words “Any inspector or any police constable under the direction and at the cost of the local authority” and inserting in lieu thereof “Any police constable acting under the directions and at the cost of the local authority, or any inspector”.

Amendment of principal Act, s. 42—  
Provision for dealing with samples.

9. Section 42 of the principal Act (as amended by section 3 of the Food and Drugs Act Further Amendment Act, 1924) is amended by adding at the end thereof the following subsection:—

(4) If any food or drug is contained in a bottle, tin, package, or other container in such quantity that its division into three parts as provided in this section would furnish parts insufficient for accurate analysis, additional bottles, tins, packages, or containers which purport to contain a similar food or drug under the same brand or label may be purchased, and—

(a) if the contents can be readily mixed the contents of two or more bottles, tins, packages, or containers so purchased may be mixed together and the mixture divided into three equal parts and be dealt with in the same manner as the three parts are to be dealt with under the preceding subsections of this section; or

(b) if the contents cannot readily be mixed at least eight additional bottles, tins, packages, or containers shall be purchased and the total number shall be divided into three lots so that there are at least three bottles, tins, packages, or containers in each lot, and each lot shall be treated as a third part of the food or drug pur-

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chased, and be dealt with in the same manner as the three parts are to be dealt under the preceding subsections.

In every case to which this subsection applies the purchase of more than one bottle, tin, package, or container shall be deemed to be one purchase, and the requirements of this subsection shall be in substitution for the requirements of subsection (1) of this section as to the division of the food or drug so purchased.

**10.** The following section is hereby enacted in the principal Act after section 51 thereof :—

New section  
15A—

51A. In any prosecution under this Act for selling any food or drug if it is proved that the food or drug was supplied or delivered by any person to another it shall, until the contrary is proved, be presumed that the food or drug was sold to the person receiving it, by the person supplying or delivering it, and, if that person was a servant or employee, he shall until the contrary is proved be deemed to have sold the food or drug with the authority of his employer.

Presumption  
of sale on  
proof of  
supply.

**11.** Section 61 of the principal Act is amended by inserting after the word “sale” in paragraph (7) thereof the words “ownership and possession”.

Amendment of  
principal Act,  
s. 61 (7).  
Control of  
ownership of  
poisons.

**12.** Section 61 of the principal Act is amended by inserting after paragraph (11) thereof the following paragraph—

Amendment of  
principal Act,  
s. 61—

(11A) The registration of premises where drugs or any specified drugs are prepared or manufactured for sale or sold unless such premises are registered under the Industrial Code, 1920, the Early Closing Act, 1926, or under any other provision of this Act; the fees to be paid for such registration; and the payment and recovery of such fees.

Registration  
of certain  
premises.

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

W. DUGAN, Governor.