



ANNO SEPTIMO

## GEORGII VI REGIS.

A.D. 1943.

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### No. 21 of 1943.

An Act to amend the Food and Drugs Act, 1908-1939.

[Assented to 16th December, 1943.]

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 Amendment Act, 1943 ". Short titles.

(2) The Food and Drugs Act, 1908-1939, as amended by this Act, may be cited as the " Food and Drugs Act, 1908-1943".

(3) The Food and Drugs Act, 1908-1939, is hereinafter referred to as " the principal Act ".

2. The following section is enacted and inserted in Part I. Amendment of principal Act—  
of the principal Act after section 5 thereof :—

5a. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any enactment of this Act would, but for this section, have been construed as being in excess of that power it shall, nevertheless, be a valid enactment to the extent to which it is not in excess of that power. Construction of Act.

3. The following section is enacted and inserted in the principal Act after section 25 thereof :— Amendment of principal Act—

25a. No person shall in or from South Australia tender or despatch or offer to tender or despatch for or on sale any article of food or drug which is adulterated contrary Despatch on sale of adulterated food or drugs. Cf. Q. 8, 1941, s. 3.

to this Act or which is packed or enclosed for sale or labelled, branded or marked in any manner contrary to or not in compliance with this Act, whether the actual sale is effected or is to become effective in South Australia or elsewhere.

Penalty, not exceeding twenty pounds.

Amendment of  
s. 29 of  
principal Act—  
Provision as to  
name and  
address of milk  
vendor.

4. Section 29 of the principal Act is amended—

- (a) by striking out the word "such" in the first line of subsection (2) thereof and by inserting in lieu thereof the word "any";
- (b) by striking out the words "such person" in the fourth line of subsection (2) thereof and by inserting in lieu thereof the words "the defendant".

Amendment of  
s. 57 of  
principal Act—

Warranty upon  
purchase of  
food or drugs.  
Cf. Vic. 4867,  
1941, s. 19 (1).

5. Section 57 of the principal Act is repealed and the following section is enacted in lieu thereof :—

57. (1) Any person who purchases any article of food or drug for re-sale may demand from the vendor a warranty in writing that the article so purchased complies with such requirements of this Act as are applicable thereto.

(2) Any such vendor who refuses to furnish any such purchaser with such a warranty shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

(3) If the defendant in any proceedings under this Act proves to the satisfaction of the court—

- (a) that he purchased the article of food or drug to which the proceedings relate with a written warranty as aforesaid ; and
- (b) that he sold the article in the same state as when he purchased it ; and
- (c) that at the time when he sold the article he had no reason to believe that the article did not comply with the requirements of this Act,

the complaint shall be dismissed but the defendant shall be ordered to pay the costs incurred by the complainant unless the defendant has given due notice to the complainant that he will rely on the defence given by this subsection.

(4) Any warranty such as is referred to in this section may be given in respect of any specified article or may be given generally in respect of articles purchased or to be purchased by the purchaser from the person giving the warranty.

6. Section 58 of the principal Act is amended by striking out the words "unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true" in subsection (6) thereof.

Amendment of  
s. 58 of  
principal Act—  
Effect of  
warranty.

7. Section 61 of the principal Act is amended by inserting therein after paragraph (12) thereof the following paragraph :—

Amendment of  
s. 61 of  
principal Act—  
Regulations.

(13) Prescribing the form of advertisements relating to the sale of any articles of food or drug, including patent medicines and proprietary articles, and prohibiting any advertisements which do not comply with the prescribed requirements. In this paragraph "advertisement", without affecting the generality of the expression, includes broadcast advertisement, price list, circular letter, pamphlet, handbill, poster, placard, label, or other written or printed matter.

8. The following section is enacted and inserted in the principal Act after section 61 thereof :—

Amendment of  
principal Act—

61a. (1) Any regulation made under this Act (whether made before or after the passing of the Food and Drugs Act Amendment Act, 1943) may provide that any drug shall conform to the description or tests or to the description and tests prescribed in any pharmacopoeia or pharmaceutical codex referred to in the regulation and may provide that any such drug shall conform as aforesaid with any addition or alteration to any such pharmacopoeia or pharmaceutical codex made from time to time and whether made after the making of the regulation.

Provision as to  
regulations.

(2) Any regulation may provide that any plant, machine, receptacle, vehicle or premises shall be of a kind approved by the Central Board of Health or a local authority or by an inspector of the Central Board of Health or a local authority.

9. Section 62 of the principal Act is amended so as to read as follows :—

Amendment of  
s. 62 of  
principal Act—

62. Section 38 of the Acts Interpretation Act, 1915-1936, shall apply to regulations made under this Act.

Application of  
s. 38 of Acts  
Interpretation  
Act to  
regulations.

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

C. M. BARCLAY-HARVEY, Governor.