



## **PLEASE NOTE**

This document, prepared by the [\*Legislative Counsel Office\*](#), is an office consolidation of this Act, current to May 20, 2004. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [\*Table of Public Acts\*](#).

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## CHAPTER D-1

### DAIRY INDUSTRY ACT

#### 1. In this Act

#### Definitions

- (a) “analyst” means an analyst designated for the purposes of the *Food and Drugs Act* (Canada) R.S.C. 1985, Chap. F-27, or an analyst employed under the Government of Canada or the Government of the Province of Prince Edward Island having authority to make analyses for public purposes; analyst
- (b) “butter margarine blend” means a mixture of butter and margarine; butter margarine blend
- (c) “container” means a box, carton, receptacle, package, wrapper or confining band; container
- (d) “dairy” means a place where milk and cream are received for the purpose of being processed and sold as Class 1 milk products; dairy
- (e) “dairy manufacturing plant” means a place where milk or cream is manufactured and processed into cheese, butter, evaporated milk, ice cream, milk powder and other milk products; dairy manufacturing plant
- (f) “dairy product” or “milk product” means milk or a product thereof, whether alone or combined with another agricultural product, that contains no oil or fat other than that of milk, and includes caseinates, sodium caseinate and whey protein concentrate; dairy product
- (g) “Department” means the Prince Edward Island Department of Agriculture, Fisheries, Aquaculture and Forestry; Department
- (h) “inspector” means a person appointed or designated as an inspector for the purposes of the administration and enforcement of this Act; inspector
- (i) “license” means a license provided for under this Act; license
- (j) “margarine” means diet margarine or any other food substance, other than butter, of whatever origin, source or composition, that is prepared for substantially the same uses as butter; margarine
- (k) “milk” means the normal milk from a cow or other animal and includes farm separated cream; milk
- (l) “Minister” means the Minister of Agriculture, Fisheries, Aquaculture and Forestry; Minister

prescribed	(m) “prescribed” means prescribed by regulations made under this Act;
processing	(n) “processing” means heating, pasteurizing, sterilizing, evaporating, drying, churning with other substances by any process, or otherwise treating milk in the manufacture or preparation of milk products;
public eating place	(o) “public eating place” means any place where food or drink is offered for sale to the public for consumption. 1987, c.14, s.1; 1993, c.29, s.4; 1997,c.20,s.3; 2004,c.36,s.3.

#### ADMINISTRATION

Administration,  
functions of  
Department

**2.** The Department of Agriculture and Forestry shall administer and enforce this Act and shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act and without limiting the generality thereof, the Department may

(a) upon its own initiative or upon complaint, inquire into any matter relating to the production, processing, storage, distribution, grading, transportation or marketing of milk, dairy products, margarine or butter margarine blends;

(b) investigate any dispute arising between producers, processors, consumers, distributors, graders and transporters of milk, dairy products, margarine or butter margarine blends or between any two classes of such persons;

(c) require any producer, processor, distributor, grader or transporter of milk, dairy products, margarine or butter margarine blends to file such returns or reports as the department may determine;

(d) disseminate information to the dairy industry on matters of interest to it;

(e) determine the books, records and documents to be kept by producers, processors, distributors, graders and transporters of milk, dairy products, margarine or butter margarine blends and the period for which such books, records and documents shall be kept. 1987, c.14, s.2; 1993, c.29, s.4; 1997,c.20,s.3.

Functions of  
inspector

**3.** (1) An inspector may

(a) at any reasonable time enter any premises, place or conveyance used for the production, processing, storage, distribution, transportation or marketing of milk, dairy products, margarine or butter margarine blends and examine and inspect any equipment, milk, dairy products, margarine or butter margarine blends or any other thing found therein;

(b) stop any conveyance that he believes may contain any milk, dairy products, margarine or butter margarine blends and inspect the

conveyance and any milk, dairy products, margarine or butter margarine blends or any other thing found therein;

(c) at the expense of the owner, obtain a sample of milk, dairy product, margarine or butter margarine blend for the purpose of making an inspection thereof;

(d) inspect the processing, production and sales records of persons engaged in the production, processing, storage, distribution, grading, transportation or marketing of milk, dairy products, margarine or butter margarine blends and for that purpose require the production or furnishing of copies thereof or extracts therefrom;

(e) whenever he believes, on reasonable grounds, that this Act has been violated, place under detention or seize the milk, dairy products, margarine or butter margarine blends, processing equipment and any other thing by means of or in relation to which he reasonably believes the violation was committed and may attach suitable tags to identify items seized or detained.

(2) Milk, dairy products, margarine or butter margarine blends and other things seized pursuant to clause (1)(e) shall not be detained after Period of detention

(a) the provisions of this Act and regulations have in the opinion of the inspector been complied with; or

(b) the expiration of ninety days from the date of seizure, unless before that time proceedings have been instituted in respect of the violation, in which event they may be detained until the proceedings are finally concluded.

(3) Persons engaged in the production, processing, storage, distribution, grading, transportation or marketing of milk, dairy products, margarine or butter margarine blends shall permit an inspector to take samples thereof at the owner's expense for the purpose of making an inspection. Taking samples

(4) The production by any person of a certificate of appointment or designation as an inspector purporting to be signed by the Minister, shall be accepted as proof of his appointment or designation. Production of inspector's certificate, proof

(5) Any person who Offences

(a) hinders or obstructs an inspector in the performance of his functions;

(b) refuses to permit an inspector to enter premises, take samples, inspect records or otherwise carry out his functions;

(c) furnishes false information to an inspector,

is guilty of an offence. 1987, c.14, s.3.

**4.** (1) No person shall engage in or carry on the business of processing or grading milk or dairy products, or transport milk, or distribute Class I Licenses required

milk products, or manufacture margarine or butter margarine blends unless he is a holder of a license issued by the Department.

Approval of buildings, etc.

(2) No person shall erect or alter a building for the purpose of conducting a dairy, dairy manufacturing plant or plant for manufacturing margarine or butter margarine blends until the site, plans and specifications of the building have been approved by the Department. 1987, c.14, s.4.

#### GRADES AND STANDARDS

Regulations re grading of dairy products

5. (1) The Lieutenant Governor in Council may make regulations establishing grades with appropriate grade names in accordance with the *Canada Agricultural Products Act* Stats. Can. 1988, c.27 and regulations for any class of dairy products and may by such regulations

- (a) prescribe the terms and conditions on which and the manner in which dairy products may be graded;
- (b) require as a condition precedent to the grading of a dairy product that it has been processed in an establishment that at the time of processing was registered and licensed in a prescribed manner and complied with prescribed conditions;
- (c) prescribe fees that may be charged for grading;
- (d) prescribe the sizes, dimensions and other specifications of containers in which a dairy product must be packed and the manner in which it must be packed as a condition precedent to the application or use of the name of a grade so established.

Offences re grading

- (2) No person shall
- (a) manufacture, sell, offer for sale or have in his possession for sale a dairy product under the name of a grade established under this section or under a grade name or other designation so closely resembling the name of a grade so established as to be likely to be mistaken therefor; or
  - (b) apply to a dairy product or to a container containing a dairy product the name of a grade established under subsection (1) or a grade name or other designation so closely resembling the name of a grade so established as to be likely to be mistaken therefor,
- unless
- (c) the dairy product conforms to the standards prescribed for the grade;
  - (d) the dairy product has been graded as required by the regulations; and
  - (e) the dairy product is packed and marked as required by the regulations.

## (3) No person

- (a) except an inspector shall alter or efface, or cause to be altered or effaced, an inspector's brands or marks, on any dairy product which has undergone grading or on any package containing a dairy product;
- (b) shall pack any dairy product for sale in any package bearing an inspector's brands or marks;
- (c) shall falsely brand any dairy product or any package containing a dairy product. 1987, c.14, s.5.

Offences re packing and marking

6. (1) Proof that a package containing a dairy product bore a name and address purporting to be the name and address of the person by whom it was packed, or a registered number purporting to be the registered number of the establishment where it was packed is *prima facie* proof, in a prosecution for a violation of this Act, that the dairy product was packed and that the package was marked by the person whose name and address appeared on the package, or by the person operating the establishment whose registered number appeared on the package, as the case may be.

Evidentiary matters, proof of packing, etc.

(2) A certificate of an analyst stating that he has examined the composition of a sample of a dairy product or other thing submitted to him by an inspector and stating the result of his examination is *prima facie* proof, in a prosecution for a violation of this Act, of the statements contained in the certificate.

Certificate of composition of sample

(3) A certificate of an inspector as to the grade of a dairy product is *prima facie* proof, in a prosecution for a violation of this Act, of the grade of the product at the time when, according to the certificate, the product was graded.

Certificate of grade

(4) In a prosecution for a violation of this Act, a document purporting to be the certificate of an analyst or an inspector shall be received in evidence without proof of the signature of the person by whom it purports to be signed and without proof of his official position. 1987, c.14, s.6.

Certificate receivable without proof of signature or official position of signatory

## IMITATION DAIRY PRODUCTS

7. (1) The Lieutenant Governor in Council may by regulations prohibit the manufacture, possession, offering for sale, sale, display, labelling or advertising of any class of product

Prohibition of sale, etc. of imitation dairy products

- (a) that purports to be a dairy product but contains fat or oil other than that of milk;
- (b) that is designated in the regulations as an imitation or substitute for milk, cream, butter, cheese, condensed milk, evaporated milk,

milk powder, dried milk, ice cream, malted milk, sherbet or any other dairy product.

Designation of imitation dairy products

(2) The Lieutenant Governor in Council may by regulations, designate any class of products as imitations of or substitutes for a dairy product for the purpose of the regulations if, in his opinion, products of that class are produced wholly or substantially as substitutes or imitations of the dairy product.

Offences re imitation dairy products

(3) No person shall manufacture, possess, offer for sale, sell, display, label or advertise a product purporting to be a dairy product or any other thing contrary to a regulation made under this section. 1987, c.14, s.7.

## MARGARINE

Sale, etc. of margarine

**8.** (1) No person shall

- (a) serve in any public eating place or sell or offer for sale, any margarine or butter margarine blend that does not conform to the standards prescribed by the regulations;
- (b) manufacture, sell, offer for sale, or serve in any public eating place any margarine or butter margarine blend which contains any preservative, except common salt or benzoic acid or its salts, of a kind or in a quantity forbidden by the regulations.

Markings on margarine container

(2) No person shall sell or offer for sale any margarine or butter margarine blend except in a container having legibly marked thereon, in addition to anything required under any Act of the Parliament of Canada or of the Legislature,

- (a) the word “margarine” or “butter margarine blend” and the trade name of the contents;
- (b) a list of the ingredients and the percentage of each ingredient;
- (c) the kind of oil or fat contained in the margarine stated in terms and percentage of vegetable oil, fish oil, animal fat and marine animal fat;
- (d) the name and address of the manufacturer or his registration number.

Regulations

(3) The Lieutenant Governor in Council may make regulations

- (a) prescribing standards of quality and colour for margarine and butter margarine blends;
- (b) prohibiting or limiting the kinds and quantity of preservatives;
- (c) providing for the issuing of licenses to manufacturers of margarine and butter margarine blends and prescribing the form, term and conditions thereof and the fees to be paid therefor, and providing for the transfer, renewal, suspension or cancellation thereof. 1987, c.14, s.8.

## REGULATORY POWERS

- 9.** The Lieutenant Governor in Council may make regulations Regulations *re*  
licenses
- (a) providing for the classifying of any or all persons engaged in the processing, transportation, distribution, grading or sale of milk or milk products within the province and providing for the licensing, certification and registration of persons in any classes and for the qualifications for licenses;
  - (b) imposing license and certificate fees upon the persons referred to in clause (a) in any classes and determining the basis upon which the amount of fees in varying amounts shall be fixed in respect of each class, and providing for the collection and payment of fees;
  - (c) prescribing the form of certificates and licenses, the terms, and the terms and conditions upon which they shall be issued, renewed, suspended or revoked. 1987, c.14, s.9.
- 10.** The Lieutenant Governor in Council may make regulations Regulations,  
general
- (a) respecting the health of cows;
  - (b) respecting sanitary conditions of cows, premises on which cows are kept or milked and the equipment used in connection with the production, handling, storage or transportation of milk;
  - (c) respecting the quality of milk, or any class thereof, delivered, supplied, sold or offered for sale to a dairy or a dairy manufacturing plant;
  - (d) prescribing the standards for equipment that shall be used in connection with a dairy or dairy manufacturing plant and the sanitary requirements for dairies and dairy manufacturing plants;
  - (e) prohibiting the delivery, sale or offering for sale to a dairy or dairy manufacturing plant or the receiving at a dairy or dairy manufacturing plant of milk that is not produced, handled, stored, collected, delivered, supplied, received or transported in accordance with the regulations or that has been rejected in accordance with the regulations;
  - (f) prescribing conditions for the delivering, supplying, transporting, selling or offering for sale to a dairy or dairy manufacturing plant of milk that has been graded at or on behalf of another dairy or dairy manufacturing plant in accordance with the regulations;
  - (g) providing for the identification, labelling and use of containers used for transporting milk;
  - (h) providing for the cleaning, sanitation, care and condition of vehicles used in transporting, collecting, delivering, distributing, supplying or receiving milk, and prescribing methods therefor;
  - (i) providing for the pasteurization and processing of milk used for the production of a milk product;



- (j) governing the methods of and the standards for equipment used in processing milk, or in manufacturing any milk product;
- (k) respecting the premises and equipment used in connection with the production, handling, storage or transportation of milk;
- (l) governing the grading, collection, transportation, delivery, handling, storage, supplying or receiving of milk and milk products, and prescribing the time therefor;
- (m) prescribing the terms and conditions upon which milk and milk products may be produced, graded, received, handled, transported, stored, distributed, delivered, supplied, processed, kept for sale or sold;
- (n) relating to the quality, kind, cleanliness, storage, production, care, grading, manufacture, processing, transportation, distribution and sale of milk and milk products;
- (o) establishing grades and standards for milk and milk products;
- (p) prohibiting the marketing of any milk and milk products that do not meet the grades or standards established from time to time;
- (q) providing for the selecting, grading, rejecting, weighing, measuring, sampling and testing of milk or milk products;
- (r) providing for the taking of samples of milk or milk products at the expense of the owner for the purpose of testing and for the identification and labelling of containers used therefor;
- (s) prescribing the tests, procedures to be followed and equipment to be used in testing the composition and quality of milk or any milk product;
- (t) providing for the standard of quality for and the composition of any milk product;
- (u) providing for the minimum amount of milk fat and the minimum amount of milk solids other than milk fat in any milk product;
- (v) regulating and prohibiting the addition to or removal from milk products of any substance and regulating and prohibiting the sale of milk products from which the substance has been added or from which the substance has been removed;
- (w) designating as a milk product any product processed or derived in whole or in part from milk;
- (x) designating reconstituted milk as milk;
- (y) prohibiting the manufacture, processing, distribution or sale of reconstituted milk;
- (z) prescribing the standards of quality for the composition of any class of reconstituted milk;
- (z.1) providing for the settlement of disputes in connection with the selecting, grading, rejecting, weighing, measuring, sampling and testing of milk;

- (z.2) providing for the issue to producers of statements by the purchaser of their milk;
- (z.3) providing for the sanitary standards and requirements for buildings, premises and conveyances in which milk and milk products, of any class thereof, are produced, processed, manufactured, stored, graded, packed, transported or distributed;
- (z.4) providing for the detention and disposal of any milk, cream, milk product or reconstituted milk produced, processed, manufactured, transported and distributed in violation of this Act or the regulations;
- (z.5) prescribing forms and providing for their use;
- (z.6) exempting from this Act and regulations, or any part thereof, any dairy or dairy manufacturing plant, or any person, or any milk product;
- (z.7) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (z.8) prescribing offences and imposing penalties in connection with the violation of milk and milk product standards. 1987, c.14, s.10; 1990, c.9, s.1.

**11.** Notwithstanding the authority of the Department in the administration of the Act, the Chief Health Officer appointed under section 2 of the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30 is authorized to take any action to protect the public from diseases which may be transmitted through the production, transportation, processing or distribution of milk, dairy products, margarine or butter margarine blends and for that purpose may exercise any of the powers conferred on him under that Act. 1987, c.14, s.11.

Chief Health  
Officer authorized  
to take action

**12.** (1) Any person who contravenes a provision of this Act or the regulations made under this Act is guilty of an offence.

Offences

(2) Any person guilty of an offence is liable on summary conviction to a fine of not less than \$200 nor more than \$5,000 or the imprisonment for a term not exceeding ninety days.

Penalty

(3) Where a person has been convicted of a violation of this Act or regulations, every dairy product or other thing by means of or in relation to which the offence was committed is, automatically upon conviction, in addition to the penalty imposed, forfeited to the Crown whether or not the forfeiture is directed by the conviction and may be disposed of as the Minister directs. 1987, c.14, s.12.

Forfeiture