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c 128 Edible Oil Products Act

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CHAPTER 128

Edible Oil Products Act

1. In this Act,

Interpre-
tation

- (a) "analyst" means an analyst appointed under this Act;
- (b) "chief inspector" means the chief inspector appointed under this Act;
- (c) "dairy product" means any milk product designated by name as a milk product in the *Milk Act* or designated as a milk product or fluid milk product in the regulations made thereunder; R.S.O. 1980, c. 266
- (d) "edible oil product" means a food substance, other than a dairy product, of whatever origin, source or composition that is manufactured for human consumption wholly or in part from a fat or oil other than that of milk;
- (e) "inspector" means an inspector appointed under this Act;
- (f) "licence" means a licence under this Act;
- (g) "Minister" means the Minister of Agriculture and Food;
- (h) "regulations" means the regulations made under this Act;
- (i) "Tribunal" means the Farm Products Appeal Tribunal under the *Ministry of Agriculture and Food Act*. R.S.O. 1980, c. 270
R.S.O. 1970, c. 138, s. 1; 1971, c. 50, s. 34 (1); 1972, c. 9, s. 1; 1978, c. 100, s. 7 (1, 2).

2. This Act applies to every edible oil product and class of edible oil product designated in the regulations. R.S.O. 1970, c. 138, s. 2; 1972, c. 9, s. 2. Application of Act

3.—(1) No person shall manufacture or sell an edible oil product, other than oleomargarine, manufactured by any process by which fat or oil other than that of milk has been added to or mixed or blended with a dairy product in such Manufacture and sale of certain edible oil products prohibited

manner that the resultant edible oil product is an imitation of or resembles a dairy product.

Flavouring
exempted

(2) Subsection (1) does not prevent the use of chocolate or cocoa or any flavouring preparation that contains fat or oil other than that of milk when used for the purpose of flavouring a dairy product so long only as such fat or oil does not exceed one-half of 1 per cent by weight of the dairy product. R.S.O. 1970, c. 138, s. 3.

Licence
required

4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the chief inspector. 1971, c. 50, s. 34 (2).

Licence,
issue

5.—(1) The chief inspector shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,

(a) he finds that,

- (i) the applicant was previously the holder of a licence and such licence was cancelled under this Act, or
- (ii) the applicant or, where the applicant is a corporation, any officer, director or servant thereof or any person who will be in any way associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act,

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

(b) he is of opinion that,

- (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law, or
- (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(2) Subject to section 6, the chief inspector shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 34 (3), *part*. Renewal

6.—(1) The chief inspector may refuse to renew or may suspend or cancel a licence if, after a hearing, he finds that, Refusal to renew, suspension or cancellation

(a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or

(b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

(2) Notwithstanding subsection (1), the chief inspector, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations. Provisional suspension, etc.

(3) Subject to subsection (2), where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. 1971, c. 50, s. 34 (3), *part*. Continuation of licence pending renewal

7.—(1) The notice of a hearing by the chief inspector under section 5 or 6 shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence. Notice of hearing

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 34 (3), *part*.

Variation
of decision
by chief
inspector

8. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 34 (3), *part*.

Appeal to
Tribunal

9.—(1) Where the chief inspector refuses to issue or renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Tribunal within fifteen days after receipt of the decision of the chief inspector, appeal to the Tribunal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Extension
of time
for appeal

(2) The Tribunal may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Disposal
of appeal

(3) Where an applicant or licensee appeals to the Tribunal under this section, the Tribunal shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Tribunal considers proper, and, for such purpose, the Tribunal may substitute its opinion for that of the chief inspector. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Effect of
decision
pending
disposal
of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. 1971, c. 50, s. 34 (3), *part*.

10.—(1) The chief inspector, the appellant and such other Parties persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this Act. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

(2) Members of the Tribunal assigned to render a decision Members making decision not to have taken part in investigation, etc. after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

(3) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

(4) The findings of fact of the Tribunal pursuant to a Findings of fact hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 34 (3), *part*; R.S.O. 1980, c. 484 1978, c. 100, s. 7 (3).

(5) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was Only members at hearing to participate in decision present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

11.—(1) Any party to the hearing before the Tribunal may Appeal to court appeal from the decision of the Tribunal to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

(2) The Minister is entitled to be heard, by counsel or Minister entitled to be heard otherwise, on the argument of an appeal under this section. 1971, c. 50, s. 34 (3), *part*.

(3) The chairman of the Tribunal shall file with the Record to be filed in court Registrar of the Supreme Court the record of the proceedings before the Tribunal which, together with a transcript of the evidence before the Tribunal, if it is not part of the Tribunal's

record, shall constitute the record in the appeal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Tribunal or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Tribunal for reconsideration by the Tribunal as the court considers proper, and the court may substitute its opinion for that of the chief inspector or the Tribunal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Effect of decision of Tribunal pending disposal of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Tribunal, unless the Tribunal otherwise directs, the decision of the Tribunal is effective until the appeal is disposed of. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Sale of edible oil products

12. No person shall offer for sale or sell by wholesale or retail an edible oil product to which this Act applies that does not comply with this Act and the regulations. R.S.O. 1970, c. 138, s. 5.

Inspectors, etc., appointment

13.—(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations. 1971, c. 50, s. 34 (4).

Obstruction of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish an inspector with false information. R.S.O. 1970, c. 138, s. 6 (2).

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating the edible oil products or classes of edible oil products to which this Act applies;
- (b) providing for the issue of licences to manufacturers and wholesalers of any edible oil product and prescribing the form, terms and conditions thereof and the fees to be paid therefor, and providing for the renewal, suspension and cancellation thereof;
- (c) prescribing standards for the operation and maintenance of premises and facilities in which any edible oil product is manufactured, packed or stored;

- (d) prescribing the standards of quality for and the composition of any edible oil product or class of edible oil product;
- (e) providing for the detention and confiscation of any edible oil product that does not comply with this Act and the regulations;
- (f) respecting the advertising of any edible oil product or class of edible oil product;
- (g) requiring and providing for the identification by labelling or otherwise of any edible oil product or class of edible oil product sold or offered for sale;
- (h) prescribing the powers and duties of inspectors and analysts;
- (i) prescribing the records to be kept by manufacturers and wholesalers of any edible oil product;
- (j) exempting any manufacturer, wholesaler or retailer of any edible oil product from this Act and the regulations, and prescribing terms and conditions therefor;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 138, s. 7; 1972, c. 9, s. 3.

15. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each offence. R.S.O. 1970, c. 138, s. 8.

