

1980

# c 324 Oleomargarine Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

## Bibliographic Citation

*Oleomargarine Act*, RSO 1980, c 324

## Repository Citation

Ontario (1980) "c 324 Oleomargarine Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 5, Article 29.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss5/29>

## CHAPTER 324

## Oleomargarine Act

## 1. In this Act,

Interpre-  
tation

- (a) "chief inspector" means the chief inspector appointed under this Act;
- (b) "licence" means a licence under this Act;
- (c) "Minister" means the Minister of Agriculture and Food;
- (d) "oleomargarine" means any food substance other than butter, of whatever origin, source or composition that is prepared for the same uses as butter and that is manufactured wholly or in part from any fat or oil other than that of milk;
- (e) "package" means any wrapper, carton, box, tub, crock, crate or any other covering or container;
- (f) "public eating place" means any place where food or drink is offered for sale to the public for consumption on the premises and includes a hotel, inn, restaurant, public conveyance, victualling house and lunch counter;
- (g) "regulations" means the regulations made under this Act;
- (h) "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. 304, s. 1; 1971, c. 50, s. 60 (1); 1978, c. 100, s. 16 (1, 2).

## 2. Every keeper of a public eating place where oleomargarine is served as such shall

Oleo-  
margarine  
served in  
public  
eating  
places

- (a) where a menu is used, cause to be displayed thereon in a conspicuous manner the words "Oleomargarine is served here";
- (b) where a menu is not used, cause to have displayed in a conspicuous manner in each room or place where

food is served a sign or placard bearing the words "Oleomargarine is served here" in letters large enough to be distinctly seen from all parts of each room or place. R.S.O. 1970, c. 304, s. 2.

Mixing  
oleomargarine and  
butter  
prohibited

**3.** No person shall mix oleomargarine with butter for purposes of sale or for use in any public eating place. R.S.O. 1970, c. 304, s. 3.

Colouring

**4.** No oleomargarine shall have a tint or shade containing more than one and six-tenths degrees and less than ten and one-half degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale read under conditions substantially similar to those established by the United States Bureau of Internal Revenue, or the equivalent of such measurement. R.S.O. 1970, c. 304, s. 4.

Packaging

**5.** Every package containing oleomargarine shall have legibly marked thereon in addition to anything required under any Act of the Parliament of Canada or of the Legislature,

- (a) the word "oleomargarine" or the trade name of the contents;
- (b) a list of the ingredients in the oleomargarine and the percentage of each such ingredient; and
- (c) the kinds of refined oil forming an ingredient in the oleomargarine and the percentage that each kind is of the total refined oil. R.S.O. 1970, c. 304, s. 5.

Licence  
required

**6.**—(1) No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the chief inspector. 1971, c. 50, s. 60 (2).

Unlawful  
manufacture,  
etc.

(2) No person shall manufacture, sell, offer for sale, have in his possession for sale or serve in any public eating place any oleomargarine that does not comply with the provisions of this Act or the regulations. R.S.O. 1970, c. 304, s. 6 (2).

Licence,  
issue

**7.**—(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 or director thereof or any person who will be 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 8, the chief inspector shall renew <sup>Renewal</sup> 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. 60 (3), *part.*

8.—(1) The chief inspector may refuse to renew or may sus- <sup>Refusal to renew, suspension or cancellation</sup> pend or cancel a licence if, after a hearing, he finds that,

- (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 <sup>Provisional suspension, etc.</sup> 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.

Continuation  
of licence  
pending  
renewal

(3) Subject to subsection (2), where, within the time prescribed 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. 60 (3), *part*.

Notice of  
hearing

**9.**—(1) The notice of a hearing by the chief inspector under section 7 or 8 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.

Examina-  
tion of  
documentary  
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. 60 (3), *part*.

Variation  
of decision  
by chief  
inspector

**10.** 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. 60 (3), *part*.

Appeal to  
Tribunal

**11.**—(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. 60 (3), *part*; 1978, c. 100, s. 16 (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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

(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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Powers of Tribunal

(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. 60 (3), *part*.

Effect of decision pending disposal of appeal

**12.—**(1) The chief inspector, the appellant and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this Act. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Parties

(2) Members of the Tribunal assigned to render a decision 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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Members making decision not to have taken part in investigation, etc.

(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. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Recording of evidence

(4) The findings of fact of the Tribunal pursuant to a 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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Findings of fact

R.S.O. 1980, c. 484

Only members at hearing to participate in decision

(5) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was 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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Appeal to court

**13.**—(1) Any party to proceedings before the Tribunal may appeal from the decision of the Tribunal to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Minister entitled to be heard

(2) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Tribunal shall file with the 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. 60 (3), *part*; 1978, c. 100, s. 16 (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. 60 (3), *part*; 1978, c. 100, s. 16 (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. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Misleading advertising

**14.**—(1) No person shall make a misleading claim with respect to oleomargarine, either by word or design, in an advertisement or on a package in which oleomargarine is contained.

Reference to dairy product in advertisement

(2) No advertisement respecting oleomargarine and no package containing oleomargarine,

(a) shall state or imply that oleomargarine has a relation to any dairy product; or

(b) shall depict a dairy scene. R.S.O. 1970, c. 304, s. 7.

**15.**—(1) The Lieutenant Governor in Council may appoint a <sup>Inspectors, appointment</sup> 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. 60 (4).

(2) No person shall obstruct any inspector in the performance of his duties or furnish any inspector with false information. <sup>Obstruction of inspectors</sup> R.S.O. 1970, c. 304, s. 8 (2).

**16.** The Lieutenant Governor in Council may make regula- <sup>Regulations</sup> tions,

- (a) providing for the issue of licences to manufacturers and wholesalers of oleomargarine 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;
- (b) prescribing standards of quality for and the composition of oleomargarine;
- (c) providing for the detention and confiscation of oleomargarine that does not comply with the provisions of this Act and the regulations;
- (d) prescribing the powers and duties of inspectors;
- (e) requiring and providing for the keeping of records by manufacturers and wholesalers;
- (f) respecting the marking and labelling of packages in which oleomargarine is contained;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 304, s. 9.

**17.** 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 or to imprisonment for not more than six months, or to both. <sup>Offences and penalties</sup> R.S.O. 1970, c. 304, s. 10.



