



BILLE BAINNE, 1934.

MILK BILL, 1934.

Mar do tugadh isteach.

As introduced.

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SAORSTÁT EIREANN

BILLE BAINNE, 1934.

MILK BILL, 1934.

BILL

5

entitled

AN ACT TO MAKE FURTHER AND BETTER PROVISION
IN RELATION TO THE PRODUCTION AND SALE OF
MILK WITH A VIEW TO IMPROVING THE STANDARDS
OF PURITY AND WHOLESOMENESS THEREOF AND
10 TO MAKE PROVISION FOR OTHER MATTERS CON-
NECTED WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT
EIREANN AS FOLLOWS:—

PART I.

15

PRELIMINARY AND GENERAL.

1.—This Act may be cited as the Milk Act, 1934.

Short title.

2.—This Act shall come into operation on such day or days
as may be fixed therefor by any order or orders of the Minister
for Local Government and Public Health, either generally or
20 with reference to any particular purpose or provision, and
different days may be so fixed for different purposes and
different provisions of this Act.

Commencement
of Act.

3.—(1) In this Act (except in Part II thereof) the word
“milk” means any article of food which is whole milk, skimmed
25 or condensed milk, cream or buttermilk.

“Milk.”

(2) In Part II of this Act the word “milk” means whole milk.

(3) In this section the expression “whole milk” means milk
from which none of the constituents have been abstracted other-
wise than as a result of any cleansing process (including pasteur-
30 isation or sterilisation) to which such milk has been subjected.

4.—Where milk is sold, or exposed or kept for sale, it shall,
unless and until the contrary is proved, be presumed, for the
purposes of this Act, to be kept, exposed or kept for sale, for
human consumption in the form of milk and in no other form.

Presumption that
milk sold, etc., is
sold, etc., for
human
consumption in
the form of milk.

35 5.—References in the subsequent provisions of this Act to the
sale of milk shall be construed as references to the sale of milk
for human consumption in the form of milk and in no other form,
and references in the said subsequent provisions to a seller of
milk shall be construed accordingly.

Construction of
references to
sale of milk.

40 6.—In this Act—

Definitions.

the expression “the Minister” means the Minister for Local
Government and Public Health;

the expression “purveyor of milk” includes a person who is a
seller of milk, whether wholesale or by retail;

the expression "dairy" includes any farm, farm house, cowshed, milk store, milk shop, or other place from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale, and, in the case of a purveyor of milk who does not occupy any premises for the sale of milk, includes the place 5 where such purveyor keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not sold otherwise than in the properly closed and unopened receptacles in which it was delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only. 10

the expression "dairyman" includes a person who is the occupier of a dairy, or any purveyor of milk;

the expression "examination" includes chemical and bacteriological and protozoological examinations and tests and any other examination or test applied to milk for the purpose of detecting 15 infection, contamination, impurity, or any other defects in the composition thereof;

the expression "sanitary district" means a sanitary district under the Public Health Acts, 1878 to 1931;

the expression "the sanitary authority" in relation to a sanitary 20 district means the sanitary authority under the Public Health Acts, 1878 to 1931, for such sanitary district;

the expression "veterinary officer" in relation to a sanitary authority means a sanitary officer appointed by such sanitary authority under section 11 of the Public Health (Ireland) Act, 25 1878, as amended by section 22 of the Local Government Act, 1925 (No. 5 of 1925);

the word "inspector" means any person authorised by the Minister in writing (either generally or for a special purpose) to exercise all or any of the powers and perform all or any of 30 the duties conferred or imposed on an inspector under this Act; the word "animals" means cows or goats;

the word "prescribed" when used in relation to the District Court means prescribed by regulations made under this Act by the Minister for Justice and in every other case means prescribed 35 by regulations made under this Act by the Minister.

"The medical officer."

7.—(1) the expression "the medical officer" means—

(a) when used in relation to a sanitary district which is a county borough, the medical superintendent officer of health for such county borough or the person for the 40 time being acting as such medical superintendent officer of health, and

(b) when used in relation to any other sanitary district, the county medical officer of health who acts for such district, or the person for the time being acting as 45 such county medical officer of health.

(2) In the case of a dispensary district forming part of a sanitary district for which no medical officer within the meaning of the foregoing sub-section of this section is for the time being acting the following provisions shall have effect that is to say, 50 so long as there is no such medical officer, the powers and duties which would be exercisable and performable under this Act by such medical officer, if there were in fact one, shall be exercised and performed within and in relation to such dispensary district by the medical officer of health of such dispensary district. 55

Presumption of sale of milk in certain cases.

8.—(1) Where milk is kept in a dairy, or in the custody or possession of any dairyman, it shall, unless and until the contrary is proved, be presumed for the purposes of this Act to be kept for the purposes of sale.

(2) Every person who offers or exposes milk for sale, or allows 60 milk to be sold or offered or exposed for sale shall be deemed for the purposes of this Act to have sold such milk.

9.—(1) It shall be the duty of the sanitary authority to enforce the provisions of this Act and of every order and regulation made thereunder and to exercise the powers vested in them by this Act or such order or regulation. Enforcement of Act by sanitary authorities.

5 (2) If a sanitary authority fail to perform any of their duties under this Act the Minister may make such order as he thinks necessary or proper for the purpose of compelling such authority to perform their duties and any such order may, without prejudice to the exercise of the powers conferred on the Minister by
10 section 72 of the Local Government Act, 1925 (No. 5 of 1925), be enforced at the suit of the Minister by mandamus.

10.—Any sanitary authority may, with the consent of the Minister, and subject to the provisions of any enactment relating to the appointment of officers by such authority, appoint such
15 and so many officers as such authority shall consider requisite for the execution of the functions, powers and duties conferred or imposed by this Act, and every officer so appointed shall be paid such remuneration as the sanitary authority, with the consent of the Minister, shall determine. Appointment of officers by sanitary authorities.

20 11.—(1) Subject to the provisions of this section, a sanitary authority and their officers shall, for the purposes of enforcing the provisions of this Act and any orders and regulations made thereunder, have the same right to be admitted to any premises as such sanitary authority and their officers have under section
25 118 of the Public Health (Ireland) Act, 1878, for the purposes of examining as to the existence of a nuisance thereon, and if such admission is refused the like proceedings may be taken with the like incidents and consequences as to orders, payment, penalty, costs, expenses and otherwise as in the case of a refusal
30 to admit to premises for any of the purposes of the said section 118. Right of entry on premises by sanitary authority.

(2) Nothing in this section shall authorise any person, except with the permission of the local authority under the Diseases of Animals (Ireland) Acts, 1894 to 1932, to enter any cow-shed or
35 other place in which an animal affected with any disease to which those Acts apply is kept and which is situated in a place declared under those Acts to be infected with such disease.

12.—(1) Whenever power is conferred on the Minister by this Act to make any order or regulation or to take any other action,
40 the Minister may before exercising such power hold a public inquiry into the matter which is the subject of such exercise of such power. Public inquiries.

(2) Article 32 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall apply in respect
45 of every public inquiry held under this section in like manner as the said Article applies in respect of the local inquiries mentioned therein.

13.—(1) The Minister for Justice may by order make regulations prescribing any matter or thing relating to the District
50 Court which is in this Act referred to as prescribed. General regulations.

(2) The Minister may by order make regulations for all or any of the following purposes, that is to say:—

(a) prescribing any matter or thing which is in this Act referred to as prescribed and is not authorised by this
55 Act to be prescribed by regulations made by the Minister for Justice;

(b) prescribing anything which the Minister is by any section of this Act authorised to prescribe by regulations made under such section.

60 (3) Any regulation made by the Minister under this Act in regard to fees shall be subject to the approval of the Minister for Finance.

Laying of regulations before Houses of the Oireachtas.

14.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after such regulation is made, and if a resolution annulling such regulation is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat after such regulation is so laid before it such regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under such regulation. 5

Finance.

15.—(1) All expenses incurred by a Minister of State under this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 10

(2) The expenses of a sanitary authority incurred under this Act shall be raised and defrayed in the manner in which the expenses incurred by such sanitary authority under the Public Health Acts, 1878 to 1931, are raised and defrayed, and, in the case of the board of health of a county health district, shall be charged equally over the whole of such county health district. 15

(3) All expenses reasonably incurred by a medical officer in relation to any prosecution for an offence under this Act shall be refunded to him by the sanitary authority of the sanitary district in which such offence was committed. 20

Saving for other Acts relating to milk and dairies.

16.—Nothing in this Act shall prejudice or affect any other enactment for the time being in force relating to milk and dairies.

Repeals.

17.—The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule. 25

PART II.

SALE OF MILK UNDER SPECIAL DESIGNATIONS.

Special designation licences.

18.—(1) The Minister may by regulations made by him under this section prescribe the designations which may be used in connection with milk sold or offered or exposed for sale, and references in this Part of this Act to a "special designation" shall be construed as referring to a designation prescribed by regulations made under this section and for the time being in force. 30 35

(2) Whenever the Minister makes regulations under the immediately preceding sub-section prescribing a special designation, he may by the same or subsequent regulations provide for all or any of the following matters, that is to say:—

(a) the grant of licences (in this Part of this Act referred to as special designation licences) to sell milk under such special designation; 40

(b) the authorities (including the Minister) to grant such licences;

(c) the form of such licences; 45

(d) the persons to whom such licences may be granted;

(e) the duration of such licences;

(f) the conditions precedent to the grant of such licences;

(g) the terms and conditions (including revocation and suspension) subject to which such licences are to be granted;

5 (h) such other matters in relation to such licences as the Minister thinks proper to make provision for.

(3) Every regulation under this section shall be made with the concurrence of the Minister for Agriculture.

10 **19.**—(1) There shall be paid by the applicant in respect of every special designation licence to the authority by whom such licence was issued the prescribed fee. Fees on special designation licences.

(2) All fees paid under this section to the Minister shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

15 (3) All fees paid under this section to an authority (other than the Minister) shall be disposed of by such authority in such manner as may be prescribed.

20.—(1) It shall not be lawful for any person—

20 (a) to sell or offer or expose for sale any milk under any special designation, or

(b) on or in connection with any sale or offer for sale or proposed sale of any milk or in any advertisement, circular or notice relating to milk, to describe or refer to such milk by any special designation,

Prohibition of sale of milk under special designations by unlicensed persons.

25 unless such person is the holder of a special designation licence for the time being in force to sell milk under such special designation.

30 (2) If any person acts in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding five pounds, and, in the case of a second or any subsequent offence under this section, to a fine not exceeding fifty pounds, and, in either case, if the offence is a continuing one, to a further fine not exceeding forty shillings
35 for each day during which the offence continues.

(3) An offence under this section may be prosecuted by the Minister or the sanitary authority within whose sanitary district the offence was committed.

40 **21.**—(1) The Minister may, after consultation with the Minister for Agriculture, make regulations under this section prescribing the descriptive words or signs which may be used, without obtaining a special designation licence, in connection with milk offered or exposed for sale, and references in this section to "a general designation" shall be construed as referring to words and signs
45 prescribed by regulations made under this section and for the time being in force. Restriction on descriptions to be applied to milk on sale.

50 (2) It shall not be lawful for any person to use in any advertisement, circular, notice, or otherwise in connection with milk offered or exposed for sale any words or signs which are neither a special designation nor a general designation and which indicate or are intended to indicate that the milk is of a particular quality or prepared in a particular manner or suitable for a particular purpose.

(3) If any person acts in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding five pounds and in the case of a second or any subsequent offence under this section, to a fine not exceeding fifty pounds and, in either case, if the offence is a continuing one, to a further fine not exceeding forty shillings for each day during which the offence continues. 5

(4) An offence under this section may be prosecuted by the Minister or the sanitary authority within whose sanitary district the offence was committed. 10

Reports by
sanitary
authorities.

22.—Where a person is the holder of a special designation licence granted by the Minister, the sanitary authority for the sanitary district in which such person carries on business as a purveyor of milk may at any time and shall, whenever required by the Minister, ascertain whether the terms and conditions subject to which such licence was granted are being performed and observed and report to the Minister the result of their action. 15

PART III.

PREVENTION OF DISEASE LIKELY TO BE CAUSED BY INFECTED MILK. 20

Diseases to
which Part III
applies.

23.—(1) This Part of this Act applies to—

(a) each of the following diseases, that is to say, tuberculosis, typhoid fever, paratyphoid fever, diphtheria, membranous croup and scarlatina, and

(b) every other disease which may from time to time be declared by an order for the time being in force made under this section to be a disease to which this Part of this Act applies. 25

(2) The Minister may from time to time by order made under this section— 30

(a) declare any disease (being a disease which in the opinion of the Minister is likely to be caused by infected or contaminated milk) to be a disease to which this Part of this Act applies;

(b) revoke any order previously made by him under this section. 35

(3) Every order under this section shall be made with the concurrence of the Minister for Agriculture.

(4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after such order is made, and if a resolution annulling such order is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat after such order is so laid before it such order shall be annulled accordingly, but without prejudice to the validity of anything previously done under such order. 40 45

Stoppage of
supplies of milk
likely to cause
disease.

24.—(1) If the medical officer of a sanitary district has reason to suspect that any disease to which this Part of this Act applies is caused, or is likely to be caused, by the consumption of any milk which is being exposed or kept for sale within such sanitary district, he shall ascertain the location of the dairy in which the animal or animals from which such milk was 50

obtained is or are kept, and thereupon the following provisions shall have effect, that is to say:—

- 5 (a) if such dairy is within such sanitary district, he shall examine the dairy and, if he so thinks fit, any person engaged in the service thereof, or resident in the dairy, or who may be resident in any premises where any person employed in such dairy may reside, and shall, if necessary, require the veterinary inspector to accompany him and to examine the animals therein, and
- 10
- 15 (b) if such dairy is situate in another sanitary district, he shall forthwith serve by post on the medical officer of such other sanitary district a notice of the facts of the case and the location of such dairy and thereupon the medical officer of such other sanitary district shall do the following things, that is to say:—
- 20 (i) he shall examine the dairy and, if he so thinks fit, any person engaged in the service thereof, or resident in the dairy, or who may be resident in any premises where any person employed in such dairy may reside, and shall, if necessary, require the veterinary inspector to accompany him and to examine the animals therein, and
- 25 (ii) he shall report to the sanitary authority whose medical officer he is and to the medical officer by whom such notice was served, the result of such examination and any action taken by him under the next following sub-section.
- 30 (2) If the medical officer of a sanitary district, who has in pursuance of the immediately preceding sub-section examined a dairy, is satisfied as the result of such examination that any disease to which this Part of this Act applies is caused or is likely to be caused by the consumption of milk supplied from such dairy, he may make an order (in this section referred to
- 35 as a prohibition order) prohibiting the dairyman, either absolutely or unless such conditions as such medical officer may think fit to insert in such order are complied with, from selling any milk from such dairy or from any particular animal or animals therein so long as such order is in force.
- 40 (3) Every prohibition order shall be in the prescribed form and state the grounds upon which such order was made.
- (4) Whenever a prohibition order is made the medical officer shall do the following things, that is to say:—
- 45 (a) serve a copy of such order on the person in respect of whom it is made, and
- (b) send a copy of such order together with any veterinary and bacteriological reports obtained by him to the sanitary authority whose officer he is and to the Minister.
- 50 (5) Every prohibition order shall come into force immediately upon the service thereof on the person in respect of whom it is made and shall remain in force unless and until it is withdrawn or annulled under this section.
- 55 (6) If a medical officer by whom a prohibition order is made is satisfied that the milk to which such order applies is no longer likely to cause a disease to which this Part of this Act applies he shall forthwith by notice in writing served on the person in respect of whom such order was made withdraw such prohibition order and such withdrawal shall have effect as from the date of such
- 60 service.
- (7) If a dairyman is aggrieved by the making or continuance of a prohibition order such dairyman may appeal to the District Court in the prescribed manner.

(8) The following provisions shall have effect in relation to an appeal under the immediately preceding sub-section, that is to say:—

(a) on the hearing of such appeal the District Court may confirm, vary or annul the prohibition order the subject of such appeal and may direct to and by whom the costs of the appeal are to be paid; 5

(b) on the hearing of such appeal, the court shall determine and state whether the prohibition order the subject of such appeal was made in consequence of the default or neglect of the appellant or the withdrawal of such order has been unreasonably neglected or refused and such determination shall be conclusive, 10

(c) no appeal shall lie to the Circuit Court under section 84 of the Courts of Justice Act, 1924 (No. 10 of 1924). 15

(9) If a prohibition order is made against a dairyman—

(a) such dairyman shall, unless such order has been made in consequence of his own default or neglect, be entitled to recover from the sanitary authority full compensation for any loss or damage he may have sustained by reason of the making of the order; 20

(b) such dairyman shall be entitled to recover from the sanitary authority full compensation for any damage or loss which he may sustain in consequence of any unreasonable neglect or refusal by the medical officer of such sanitary authority to withdraw such order. 25

(10) The following provisions shall have effect in relation to the recovery of compensation under the foregoing sub-section, that is to say:—

(a) subject to the provisions of the next succeeding paragraph, any dispute as to the fact of any damage or loss or as to the amount of compensation shall be settled by arbitration in the manner provided by the Public Health (Ireland) Act, 1878, and any sum awarded as compensation shall be recoverable as a simple contract debt in a court of competent jurisdiction; 30 35

(b) if the compensation claimed does not exceed twenty-five pounds, proceedings to recover the same may, at the option of the dairyman, be brought in the District Court. 40

(11) Whenever a prohibition order is in force a dairyman shall not be liable for an action for breach of contract if the breach is due to such order.

(12) If any dairyman in respect of whom a prohibition order is for the time being in force fails, refuses or neglects to comply with such order such dairyman shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding fifty pounds, and in the case of a second or subsequent offence under this section, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment, and in either case, if the offence is a continuing one, to a further fine not exceeding five pounds for each day during which the offence continues. 45 50 55

(13) Proceedings for an offence under this section may be taken before a Justice of the District Court having jurisdiction either in the sanitary district where the offence was committed or the sanitary district where the dairy to which the prohibition order relates is situate, and may be taken by either the medical officer of either such sanitary district or by any officer authorised in that behalf by the sanitary authority of either such district. 60

25.—(1) If any dairyman sells milk which is infected with a disease to which this Part of this Act applies, such dairyman shall, if it is proved that he previously knew or could by the exercise of ordinary care have ascertained that such milk was so infected, be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding fifty pounds, and, in the case of a second or any subsequent offence under this section, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment and in either case, if the offence is a continuing one, to a further fine not exceeding five pounds for each day during which the offence continues.

Prohibition of sale of infected milk.

(2) An offence under this section may be prosecuted by the sanitary authority within whose sanitary district the milk was infected, or by the sanitary authority within whose sanitary district the offence was committed.

26.—(1) If a dairyman sells milk to which any person who is infected with or has been exposed to infection by a disease to which this Part of this Act applies has had access, such dairyman shall, if it is proved that he previously knew or could by the exercise of ordinary care have ascertained that such person was so infected or exposed to infection, be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding five pounds and, in the case of a second or any subsequent offence under this section, to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment and in either case, if the offence is a continuing one, to a further fine not exceeding forty shillings for each day during which the offence continues.

Prohibition of sale of milk to which an infected person has access.

(2) An offence under this section may be prosecuted by the sanitary authority within whose district the milk was exposed to infection or by the sanitary authority within whose sanitary district the offence was committed.

27.—(1) Where a person residing on any land or premises on or in which any milk has been produced or kept, or a person who frequents such land or premises is infected with a disease to which this Part of this Act applies, it shall be the duty of a dairyman at least twenty-four hours before selling any milk produced or kept on such premises to give to the medical officer of health of the dispensary district in which such land or premises are situate notice in writing of the full facts of the case and if such dairyman sells such milk without giving such notice or (except with the permission of such medical officer) before the expiration of twenty-four hours from the giving of such notice he shall, if it is proved that before such disposal he knew or by the exercise of ordinary care could have ascertained that such person was so infected be guilty of an offence under this section and be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding five pounds and, in the case of a second or any subsequent offence under this section, to a fine not exceeding fifty pounds, or to imprisonment for any term not exceeding six months or to both such fine and imprisonment, and, in either case, if the offence is a continuing one, to a further fine not exceeding forty shillings for each day during which the offence continues.

Prohibition of sale without notice of milk likely to be exposed to infection.

(2) An offence under this section may be prosecuted by the sanitary authority within whose sanitary district the milk was infected, or by the sanitary authority within whose sanitary district the offence was committed.

PART IV.

SALE OF MILK FROM DISEASED COWS.

Diseases to which Part IV applies.

28.—(1) This Part of this Act applies to—

- (a) each of the following diseases affecting cows, that is to say:—
- tuberculosis of the udder, 5
 - any tuberculous condition of the uterus,
 - any form of tuberculosis in which tubercle bacilli are excreted,
 - any septic condition of the uterus, 10
 - acute mastitis,
 - chronic mastitis,
 - actinomycosis of the udder,
 - anthrax,
 - foot and mouth disease, 15
 - suppuration of the udder,
 - retained placenta; and
- (b) every other disease which may from time to time be declared by an order for the time being in force made under this section to be a disease to which this Part of this Act applies. 20

(2) The Minister may from time to time by order made under this section—

- (a) declare any disease affecting cows to be a disease to which this Part of this Act applies; 25
- (b) revoke any order previously made by him under this section. 30

(3) Every order under this section shall be made with the concurrence of the Minister for Agriculture.

(4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after such order is made, and if a resolution annulling such order is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat after such order is so laid before it such order shall be annulled accordingly, but without prejudice to the validity of anything previously done under such order. 35

Prohibition of sale of milk from cows suffering from a disease to which Part IV applies.

29.—(1) If any person sells the milk of any cow which is suffering from any disease to which this Part of this Act applies, and it is proved that such person had previously received notice from an officer of the sanitary authority, or that he otherwise knew, or by the exercise of ordinary care could have ascertained, that such cow was suffering from such disease, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding fifty pounds and, in the case of a second or any subsequent offence under this section, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment and, in either case, if the offence is a continuing one, to a further fine not exceeding five pounds for each day during which the offence continues. 40 45 50

(2) An offence under this section may be prosecuted by the sanitary authority within whose sanitary district the cow is kept, or by the sanitary authority within whose sanitary district the offence was committed. 55

PART V.

BACTERIOLOGICAL EXAMINATION OF MILK.

- 30.—(1) The Minister shall from time to time appoint such and so many qualified persons as he may think necessary to be
5 bacteriological examiners for the purpose of this Act and the persons so appointed shall hold office during the pleasure of the Minister. Appointment of bacteriological examiners.
- (2) Whenever the Minister appoints any person to be a bacteriological examiner he shall forthwith publish notice of
10 such appointment in the *Iris Oifigiúil* and such appointment shall take effect as from the date of the publication of such notice.
- (3) In this Act the expression "bacteriological examiner" means a bacteriological examiner appointed by the Minister under this section.
- 15 31.—The Minister may by regulations made under this section prescribe the fees to be paid to bacteriological examiners for the examination and testing of samples of milk submitted to them under this Act and may by such regulations prescribe
20 different fees in relation to the examination and testing of samples for different purposes and in relation to the different tests to be applied to samples so submitted. Bacteriological examination fees.
- 32.—(1) The Minister, every sanitary authority, and every
dairyman may submit samples of milk to a bacteriological
examiner for examination and test. Submission of milk samples.
- 25 (2) Every sample of milk submitted to a bacteriological examiner under this section shall be accompanied by a request in writing for the making of the particular examination and test required in respect of such sample and subject to the provisions of the next following sub-section, by the prescribed fee
30 for the making of such examination and test.
- (3) No fee shall be payable in respect of any sample of milk submitted under this section by the Minister for examination and test to a bacteriological examiner who is employed in the Civil Service of the Government of Saorstát Éireann.
- 35 33.—Every bacteriological examiner shall examine and test each sample of milk submitted to him in accordance with this Act and on the completion of such examination and test issue to the person by whom such sample was submitted a certificate (in this Act called a bacteriological certificate) stating the result of such
40 examination and test in respect of such sample. Duty of bacteriological examiner.

PART VI.

POWERS OF SAMPLING MILK.

- 34.—Each of the following persons shall be a milk sampling
officer for the purposes of this Act, that is to say:— Milk sampling officers.
- 45 (a) any inspector,
(b) any medical officer of health,
(c) any sanitary officer of a sanitary authority whom such sanitary authority has (with the consent of the Minister) appointed to be a milk sampling officer.
- 50 35.—(1) An inspector may, in any place, and a medical officer of health or a sanitary officer who is a milk sampling officer, may
in any place within the sanitary district for which such officer Power to take samples of milk.

acts, take without payment a sample of milk at any time before such milk is delivered to the consumer.

(2) Any person authorised by this section to take a sample of milk may for the purpose of taking such sample open any receptacle containing milk and do any other act which he may deem necessary for the said purpose. 5

Non-interference with traffic.

36.—In the exercise in or upon the premises of any person engaged in the business of carrying goods by land, water or air, of the powers conferred on him by this Part of this Act a sampling officer shall conform to such reasonable requirements of such person as are necessary to prevent the working of the traffic on such premises being obstructed or interfered with. 10

Taking of samples of milk outside sanitary district on requisition of medical officer of such district.

37.—(1) The medical officer of a sanitary district within which milk from any dairy situate outside such sanitary district is being sold or exposed for sale or any other officer authorised for the purpose by the sanitary authority of such district may by notice (in this Act referred to as a sampling notice) in writing require the medical officer of the sanitary district in which such dairy is situate or through which such milk passes in course of transit from such dairy to such sanitary district to cause a sampling officer to take samples of the milk at such dairy or in course of such transit, and upon receipt of such notice such last mentioned medical officer shall cause such samples to be taken accordingly. 15 20

(2) Any reasonable expenses incurred in the taking of a sample of milk in pursuance of a sampling notice shall be defrayed by the sanitary authority whose officer gave such notice and the amount of such expenses shall, in default of agreement, be determined by the Minister. 25

(3) For the purposes of any proceedings under this Act in relation to a sample of milk taken in pursuance of a sampling notice such sample shall be deemed to have been taken, at the option of the prosecutor, either without or within the district of the sanitary authority whose officer gave such notice, and accordingly proceedings under this Act may be taken either before a Justice of the District Court having jurisdiction within such district or before a Justice of the District Court having jurisdiction in the district in which such sample was actually taken. 30 35

Division of and dealings with samples.

38.—(1) Whenever a sampling officer takes, otherwise than in pursuance of a sampling notice, in exercise of the powers conferred on him by this Part of this Act a sample of milk he shall divide such sample into two parts and put each part into a separate bottle and mark cork and seal such bottle in the prescribed manner and shall then proceed as follows, that is to say:— 40 45

(a) where such milk when taken is under the actual control of the seller or consignor thereof or his agent, he shall—

(i) if required to do so, deliver to such seller, consignor or agent, one of the said bottles; 50

(ii) retain the other bottle and if he thinks fit, send it to a bacteriological examiner for examination of its contents;

(b) where such milk when so taken is not under the actual control of the seller or consignor or his agent, he shall— 55

(i) forward to the consignor one of the said bottles,

(ii) retain the other bottle and if he thinks fit, send it to a bacteriological examiner for examination of its contents. 60

(2) Whenever, in pursuance of a sampling notice a sampling officer takes, in exercise of the powers conferred on him by this Part of this Act, a sample of milk he shall divide such sample into two parts and put each part into a separate bottle and mark 5 cork and seal such bottle in the prescribed manner and shall then proceed as follows, that is to say:—

- (a) where such milk when taken is under the actual control of the seller or consignor thereof or his agent, he shall—
- 10 (i) if required to do so deliver to such seller, consignor or agent, one of the said bottles;
- (ii) send the other bottle to the medical officer who gave such sampling notice;
- (b) where such milk, when so taken is not under the actual control of the seller or consignor or his agent, he shall—
- 15 (i) forward to the consignor one of the said bottles,
- (ii) send the other bottle to the medical officer who gave such sampling notice.
- 20 (3) Upon receipt of a bottle containing a sample of milk taken in pursuance of a sampling notice, the medical officer may if he thinks fit send the bottle to a bacteriological examiner for examination of its contents.

(4) In any proceedings under this Act, a certificate purporting 25 to be under the hand of a sampling officer who took a sample of milk in pursuance of a sampling notice that the provisions of sub-section (2) of this section were complied with by him in relation to such sample shall be *prima facie* evidence of the matters so certified, and it shall not be necessary to prove the 30 signature of such officer, or that he was in fact such officer.

PART VII.

MISCELLANEOUS PROVISIONS.

39.—The following provisions shall have effect in relation to proceedings under this Act in respect of a sample of milk taken 35 under Part VI of this Act, that is to say:—

Service and evidence of bacteriological certificate.

- (a) where for the purpose of such proceedings a bacteriological certificate has been obtained by or on behalf of the prosecutor, a copy thereof shall be served on the defendant with the summons;
- 40 (b) where for the purpose of any such proceedings a bacteriological certificate is intended to be produced by the defendant, a copy thereof shall be sent to the prosecutor at least three clear days before the return day, and if it is not so sent, the court may, if it thinks fit, 45 adjourn the hearing on such terms as it may consider proper;
- (c) in any such proceedings, the production by either party of a bacteriological certificate shall be sufficient evidence of the facts stated therein unless the other party 50 requires that the bacteriological examiner who gave such certificate shall be called as a witness.

40.—(1) It shall not be lawful for any person to sell or expose or offer for sale any milk which is infected, contaminated or 55 dirty.

Prohibition of sale of infected, etc., milk.

(2) Any person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding five pounds and, in

the case of a second or any subsequent offence under this section, to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment.

(3) An offence under this section may be prosecuted by the sanitary authority within whose sanitary district the milk is sold or exposed or offered for sale. 5

Sale of milk in public places.

41.—(1) It shall not be lawful for any person by himself or his servant to sell or deliver to a purchaser in any highway or public place milk from a vehicle or from a can or other receptacle unless there is conspicuously inscribed on such vehicle, can or receptacle his name and address and the words "Bainne ar diol." 10

(2) If any person acts in contravention of this section he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds. 15

(3) Where milk is sold or delivered on behalf of a person such milk shall for the purposes of this section be deemed to have been sold or delivered by such person and not by the person who actually sold or delivered it. 20

Sale of separated or skimmed milk.

42.—(1) The Minister, after consultation with the Minister for Agriculture, may by order make regulations under this section requiring every tin or other receptacle, in which separated or skimmed milk is sold or exposed or offered for sale, to be labelled or marked in the manner provided by such regulations. 25

(2) If any person sells, or exposes or offers for sale any separated or skimmed milk in any tin or other receptacle which is not labelled or marked in the manner provided by regulations made under this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. 30

(3) Sub-section (1) of section 1 of the Public Health (Regulations as to Food) Act, 1907, as amended by section 23 of the Local Government Act, 1925 (No. 5 of 1925), shall be construed and have effect as if the words "skimmed or separated" now contained in paragraph (d) of the said sub-section, as so amended, were omitted therefrom. 35

Establishment of milk depots by sanitary authorities.

43.—The sanitary authority of a sanitary district may, with the approval of the Minister and subject to compliance with such conditions as the Minister may think fit to impose, establish and maintain in such district depots for the sale of milk specially prepared for consumption by infants under two years of age and may purchase and prepare milk and provide such laboratories, plant and other things and exercise such other powers as may be necessary to enable them to give effect to this section. 40 45

Disclosure by dairymen of sources of supply of milk.

44.—(1) The medical officer of a sanitary district may from time to time serve a notice in writing on a dairyman supplying milk in such sanitary district requiring him to furnish to such medical officer within three days after the service of such notice a complete list of all sources from which he has derived such supply during the period specified in such notice. 50

(2) If any dairyman upon whom a notice is served under this section either refuses or neglects to make a return in accordance with such notice or makes a return which is false or misleading in any material respect, such dairyman shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. 55

Service of documents on dairymen.

45.—(1) Where a document is required by this Act to be served on a dairyman, such document shall be addressed to such

dairyman and shall be served on such dairyman in some one of the following ways, that is to say:—

- (a) by delivering it to such dairyman;
- 5 (b) by leaving it at the address at which such dairyman ordinarily resides;
- (c) by sending it by post in a prepaid registered letter addressed to such dairyman at the address at which he ordinarily resides;
- 10 (d) where the address at which such dairyman ordinarily resides cannot be ascertained by reasonable inquiry and such document is so required to be served in respect of a dairy occupied by such dairyman, by delivering it at such dairy to some person over sixteen years of age resident or employed at such dairy, or by
- 15 affixing it in a conspicuous position on such dairy.

(2) For the purposes of this section a company registered under the Companies Acts, 1908 to 1924, shall be deemed to be ordinarily resident at its registered office, and every body corporate and every unincorporated body shall be deemed to be ordinarily

20 resident at its principal office or place of business.

46.—If any person—

Obstruction of officers.

- 25 (a) wilfully obstructs or impedes an inspector or a medical officer, or a veterinary officer, or any other officer of a sanitary authority in exercise of the powers conferred on him, by or under this Act, or
- (b) fails to give such inspector or officer all reasonable assistance in his power, or
- (c) fails to furnish such inspector or officer with any information he may reasonably require,

30 such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding five pounds, and, in the case of a second or subsequent offence under this section, to a fine not exceeding fifty pounds, and in either case,

35 if the offence is a continuing one, to a further fine not exceeding forty shillings for each day during which the offence continues.

SCHEDULE.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
62 & 63 Vic., c. 51.	The Sale of Food and Drugs Act, 1899.	Sections 9 and 11.
8 Edw. VII., c. 56.	The Tuberculosis Prevention (Ireland) Act, 1908.	Section 16.

Saorstát Éireann.

BILLE BAINNE, 1934.

BILLE

(mar do tugadh isteach)

dá ngairmtear

Acht chun soeruithe bhreise agus fheabhsa do dhéanamh maidir le bainne do tháirgeadh agus do dhíol d'fhonn caighdeán a íodhaoine agus a fholláine d'fheabhsú agus chun soeruithe do dhéanamh i gcóir nithe eile bhaineas leis na nithe roimhráite.

An tAire Rialtais Aitiúla agus Sláinte Puiblí do thug isteach.

Do hordúiodh, ag Dáil Éireann, do chlóbhuiladh, 18adh Iúil, 1934.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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Saorstát Éireann.

MILK BILL, 1934.

BILL

(as introduced)

entitled

An Act to make further and better provision in relation to the production and sale of milk with a view to improving the standards of purity and wholesomeness thereof and to make provision for other matters connected with the matters aforesaid.

Introduced by the Minister for Local Government and Public Health.

Ordered, by Dáil Éireann, to be printed, 18th July, 1934.

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