

SAORSTÁT EIREANN

BILLE BAINNE AGUS DEIRITHE, 1934. MILK AND DAIRIES BILL, 1934.

*Mar do ritheadh ag dhá Thigh an Oireachtais.
As passed by both Houses of the Oireachtas.*

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SAORSTÁT EIREANN

BILLE BAINNE AGUS DEIRITHE, 1934.
MILK AND DAIRIES 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 and Dairies Act, 1935. *Short title.*

2.—This Act shall come into operation on such day or days *Commencement*
as may be fixed therefor by any order or orders of the Minister *of Act.*
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.

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

(2) In Part IV 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, *Presumption that*
unless and until the contrary is proved, be presumed, for the *milk sold, etc., is*
purposes of this Act, to be sold, exposed or kept for sale, for *sold, etc., for*
human consumption in the form of milk and in no other form. *human*
consumption in
the form of milk.

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

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;

45 the expression “dairy” includes (save where otherwise
provided in this Act) 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
50 not occupy any premises for the sale of milk, includes the place
where such purveyor keeps the vessels used by him for the sale of
milk;

the expression "dairyman" includes (save where otherwise provided in this Act) 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 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 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, 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 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 by regulations made under this Act by the Minister.

Exclusion of certain dairies and dairymen.

7.—Where—

(a) surplus milk produced on a farm is occasionally sold to persons for consumption by such persons or their families, and

(b) the occupier of such farm does not in any one day sell more than one gallon of such milk, and

(c) the selling of milk does not form part of the ordinary business of such occupier,

then for the purposes of this Act, such farm shall be deemed not to be a dairy and such occupier shall be deemed not to be a dairyman and, for the purposes of the provisions of Part II of this Act relating to temporary exclusion of certain dairymen from Part II, and the provisions of Part III of this Act relating to temporary exclusion of certain dairies and dairymen from Part III, such milk shall be deemed not to have been sold to such persons.

"The medical officer."

8.—(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 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 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, 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.

Presumption of sale of milk in certain cases.

9.—(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 milk to be sold or offered or exposed for sale shall be deemed for the purposes of this Act to have sold such milk.

10.—(1) A dairyman shall be deemed for the purposes of this Act to carry on the business of a dairyman at every premises used by him for the purposes of his business as a dairyman. Miscellaneous matters of interpretation.

(2) Where a person carrying on the business of a dairyman in a sanitary district does not occupy any premises in such sanitary district for the purposes of such business, every vehicle which such person uses for the purposes of such business shall be deemed for the purposes of this Act to be premises in such district.

(3) Where the terms of a contract of service provide that milk is to be supplied free by the employer to the employee, milk supplied by the employer to the employee under such contract shall be deemed for the purposes of this Act not to have been sold by the employer to the employee.

11.—(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.

(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 section 72 of the Local Government Act, 1925 (No. 5 of 1925), be enforced at the suit of the Minister by mandamus.

12.—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 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.

13.—(1) Every officer of a sanitary authority and every inspector shall, for the purposes of enforcing the provisions of this Act and any orders and regulations made thereunder, be entitled to enter at all reasonable times any premises. Right of entry on premises.

(2) If any person obstructs or impedes any officer of a sanitary authority or any inspector in exercise of the power conferred on such officer or inspector by 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 fifty pounds.

(3) 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 1934, to enter any cow-shed or 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.

14.—(1) Whenever power is conferred on the Minister by this Act to make any order or regulation or to take any other action, 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 of every public inquiry held under this section in like manner as the said Article applies in respect of the local inquiries mentioned therein.

15.—(1) The Minister for Justice may by order make regulations prescribing any matter or thing relating to the District 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 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.

(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.

16.—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.

Finance.

17.—(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.

(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.

(3) All expenses reasonably incurred by an officer of a sanitary authority 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.

Saving for other Acts relating to milk and dairies.

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

Repeals.

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

PART II.

REGISTRATION OF DAIRYMEN AND DAIRIES.

Temporary exclusion of certain dairymen from Part II.

20.—(1) A person—

(a) who sells milk to persons who are registered proprietors, within the meaning of the Dairy Produce Acts, 1924 to 1934, of premises registered under the said Acts, and who are holders of special designation licences granted under Part IV of this Act, and

(b) who sells milk to no other persons,

shall be deemed for the purposes of this part of this Act not to carry on the business of dairyman.

(2) The Minister may, with the consent of the Minister for Agriculture, make at any time an Order declaring that sub-section (1) of this section shall cease to be in force on and after a specified date and thereupon on and after such date the said sub-section (1) shall cease to be in force.

(3) A person who sells milk for consumption on the premises in which it is sold and not elsewhere shall be deemed for the purposes of this Part of this Act not to carry on the business of a dairyman.

Registers of dairymen.

21.—Every sanitary authority shall cause to be kept, in the prescribed form, a register, to be called and known as the register of dairymen, and there shall be registered in every such register the matters required by this Act to be registered therein and such other matters as may be prescribed.

Registration of dairymen

22.—(1) Any person who proposes to carry on in the sanitary district of a sanitary authority the business of dairyman may apply to such authority to be registered in the register of dairymen kept by such authority.

(2) Every application to a sanitary authority under this section shall be in the prescribed form and shall state the address of the applicant and particulars of the premises where the applicant proposes to carry on the business of dairyman in the sanitary district of such authority and in respect of which the applicant seeks to be registered in the register of dairymen kept by such authority and such other particulars (if any) as may be prescribed.

(3) Upon receipt of an application under and in accordance with this section the sanitary authority shall, subject to the provisions of the next following section, cause to be registered in the register of dairymen kept by them—

- (a) the name and address of the applicant, and
- (b) particulars of the several premises specified in such application in respect of which the applicant seeks to be registered in the said register.

23.—(1) Where an application is made to a sanitary authority for registration in the register of dairymen kept by such authority, such authority, if they are satisfied that applicant is not a fit and proper person to carry on the business of a dairyman or that the premises in respect of which he seeks registration are not suitable, may by order (in this Part of this Act referred to as a refusal order)—

Refusal of registration of dairymen.

- (a) refuse to register the applicant and the premises in respect of which the applicant seeks registration, or
- (b) where the applicant requests registration in respect of several premises, register the applicant in respect of some of those premises but refuse to register the applicant in respect of the remainder of those premises.

(2) Every refusal order shall state the grounds on which the order is made.

(3) Where a sanitary authority makes in relation to an application a refusal order the following provisions shall have effect, that is to say:—

- (a) the sanitary authority shall serve on the applicant a copy of such order;
- (b) the sanitary authority shall send to the Minister a copy of such order;
- (c) the applicant may within twenty-one days after the service of such copy appeal in the prescribed manner to the Minister against such refusal order;
- (d) in the event of such appeal being duly made, the Minister shall, after considering the matter, make, as he thinks proper, either an order confirming such refusal order or an order directing the sanitary authority to register the appellant in the register of dairymen kept by them in accordance with the terms of the application or with such modifications as to the Minister may seem proper.

24.—(1) Subject to the provisions of the next following section, it shall not be lawful for any person after the expiration of six months from the commencement of this Part of this Act to carry on the business of dairyman in any premises situate in a sanitary district unless—

Prohibition of sale of milk by unregistered dairymen or on unregistered premises.

- (a) such person is registered in the register of dairymen kept by the sanitary authority for such district, and
- (b) the said premises are premises in respect of which such person is registered in the said register.

(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 for each day during which the offence continues.

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

Carrying on of
business on death
of registered
dairyman.

25.—Where a person who is registered in the register of dairy-
men dies, the carrying on of the business of dairyman by the
personal representative or a member of the family of such person
in any premises in respect of which such person is registered in
such register shall, notwithstanding that such personal repre- 5
sentative or member is not registered in the said register in
respect of the said premises, not during the period of one month
from the death of such person be deemed a contravention by such
personal representative or member of the immediately preceding
section. 10

Cancellation of
registration on
grounds of
unsuitability of
dairyman, etc.

26.—(1) Where a sanitary authority are satisfied that—
(a) any person registered in the register of dairymen kept by
them is no longer a fit and proper person to carry on
the business of dairyman, or
(b) that any person registered in such register has been con- 15
victed of an offence under this Act or of an offence
under the Sale of Food and Drugs Acts, 1875 to 1935,
in relation to the sale of milk, or
(c) that the registration of any person in the register of
dairymen kept by them was procured by fraud or by 20
misrepresentation, whether fraudulent or innocent,
such sanitary authority may, subject to the provisions of this
section, by order (in this section referred to as a cancellation
order) cancel the registration of such person in such register.

(2) Where a sanitary authority are satisfied that any premises 25
in respect of which any person is registered in the register of
dairymen kept by them are no longer suitable for use as a
dairy, such sanitary authority may, subject to the provisions of
this section, by order (in this section also referred to as a
cancellation order), in case such person is registered in such 30
register in respect of other premises, cancel the entry of such
first-mentioned premises in such register or, in any other case,
cancel the registration of such person in such register.

(3) Every cancellation order shall state the grounds on which 35
such order is made.

(4) Where a sanitary authority make a cancellation order
cancelling the registration of a person in the register of dairy-
men kept by them, such order shall specify a period commencing
from the date of such order during which such person shall 40
not be eligible for re-registration in such register.

(5) The following provisions shall have effect in respect of
the making by a sanitary authority of a cancellation order in
relation to a person (in this sub-section referred to as the dairy-
man) registered in the register of dairymen kept by such sanitary
authority, that is to say:— 45

- (a) before making such order, such sanitary authority shall
cause a draft of the proposed order to be prepared;
- (b) such sanitary authority shall serve on the dairyman a
notice in the prescribed form of their intention to
apply to the Minister for his consent to the making of 50
the proposed order, and such notice shall incorporate
a copy of the said draft;
- (c) the dairyman may, within fourteen days after the service
of the said notice, make representations to the Minister
in relation to the proposed order; 55
- (d) as soon as may be after the service of the said notice,
such sanitary authority shall apply to the Minister for
his consent to the making of the proposed order, and
such application shall be accompanied by a copy of the
said notice having endorsed thereon the date of service 60
thereof on the dairyman;
- (e) on receipt of the said application the Minister shall, but
not earlier than fourteen days after the date of the
service of the said notice on the dairyman, consider
the said application and any representations made by 65

the dairyman, and shall, after such consideration, do one of the following things, namely—

- (i) consent to the making of the proposed order in terms of the said draft, or
- 5 (ii) amend the said draft and consent to the making of the proposed order, in terms of the said draft, as so amended, or
- (iii) refuse his consent to the making of the proposed order;
- 10 (f) such sanitary authority shall not make the proposed order if the Minister has refused his consent and shall not, if the Minister has consented to the making thereof, make the proposed order otherwise than in the terms of the said draft or the said draft, as
- 15 amended by the Minister (as the case may be).

(6) Where a sanitary authority make, with the consent of the Minister, a cancellation order they shall serve a copy of such order on the person to whom such order relates, and such order shall come into force on the seventh day after the date of such

20 service.

(7) Where a cancellation order cancelling the registration of a person registered in the register of dairymen kept by a sanitary authority comes into force, such sanitary authority shall not, without the consent of the Minister, re-register such person in

25 such register during the period specified in such order as the period during which such person shall not be eligible for re-registration in such register.

(8) Where a person registered in the register of dairymen kept by a sanitary authority is convicted for the third time within

30 a period of five years of an offence under this Act or of an offence under the Sale of Food and Drugs Acts, 1875 to 1935, in relation to the sale of milk, such sanitary authority shall cancel the registration of such person in such register, and, notwithstanding anything contained in this Act, shall not, without the

35 consent of the Minister, re-register such person in such register during the period of one year commencing from the date of the last of such convictions.

27.—(1) A sanitary authority may at any time alter or cancel any entry in the register of dairymen kept by them upon the

40 application in writing of the person in respect of whose registration such entry was made or, where such person is an individual, of his personal representative or, where such person is a body corporate, of the liquidator.

Rectification and
cancellation of
registration.

(2) A sanitary authority may at any time, without such applica-

45 tion as aforesaid, cancel the registration of any person in the register of dairymen kept by them if such sanitary authority are satisfied that such person, if an individual, has died, or if a body corporate, has been dissolved and no other person has within one month after such death or dissolution been registered in place of

50 the person so dead or dissolved.

(3) Subject to the provisions of sub-section (5) of this section, a sanitary authority may at any time, without such application as aforesaid, cancel the registration of any person in the register of dairymen kept by them if such sanitary authority are satisfied—

- 55 (a) in case such person is registered in respect of one set of premises only, that such person has ceased to carry on the business of dairyman at such set of premises,
- (b) in case such person is registered in respect of two or more
- 60 sets of premises, that such person has ceased to carry on the business of dairyman at all such sets of premises.

(4) Subject to the provisions of the next following sub-section, where a person is registered, in the register of dairymen kept by a sanitary authority, in respect of two or more sets of premises, such

sanitary authority may, at any time, without such application as aforesaid, if satisfied that such person has ceased to carry on the business of dairyman at any one of such sets of premises, cancel the registration of such person in respect of the set of premises at which he has ceased to carry on such business.

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(5) A sanitary authority shall, before exercising, in relation to any person registered in the register of dairymen kept by them, the powers conferred on them by sub-section (3) or sub-section (4) of this section, serve on such person at least fourteen days' notice of their intention to exercise such powers.

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Cancellation of registration in other cases.

28.—(1) The sanitary authority may, once, but not oftener, in every year, serve on any person registered in the register of dairymen kept by such sanitary authority a requisition, requiring such person, if he desires to continue to be registered in such register, to send to such sanitary authority before the expiration of the period (which shall not be less than one month from the date of the service of such requisition) specified in such requisition, notice of his desire to continue to be so registered.

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(2) If any person upon whom a requisition under this section has been served by a sanitary authority fails or neglects before the expiration of the period specified in such requisition to send to such sanitary authority notice of his desire to continue to be registered in the register of dairymen kept by such sanitary authority, such sanitary authority may cancel the registration of such person in such register.

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Evidence of contents of registers of dairymen.

29.—(1) The register of dairymen kept by a sanitary authority shall be—

(a) deemed to be in proper custody when in the custody of an officer of such sanitary authority authorised in that behalf by such sanitary authority, and

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(b) admissible in evidence without further proof, on production from the proper custody.

(2) Prima facie evidence of any entry in the register of dairymen kept by a sanitary authority may be given in any Court or any legal proceedings by the production of a copy of such entry purporting to be certified to be a true copy by an officer of such sanitary authority authorised in that behalf, and it shall not be necessary to prove the signature of such officer or that he was in fact such officer or was so authorised.

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(3) A certificate purporting to be under the hand of an officer of a sanitary authority authorised in that behalf that a specified person was not during a specified time registered in the register of dairymen kept by such sanitary authority shall in any legal proceedings be prima facie evidence of the facts so certified, and it shall not be necessary to prove the signature of such officer, or that he was such officer or was so authorised.

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(4) A certificate purporting to be under the hand of an officer of a sanitary authority authorised in that behalf that specified premises were not during a specified time entered in the register of dairymen kept by such sanitary authority shall in any legal proceedings be prima facie evidence of the facts so certified, and it shall not be necessary to prove the signature of such officer or that he was such officer or was so authorised.

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PART III.

REGULATIONS IN RELATION TO DAIRIES AND MILK, AND INSPECTION OF ANIMALS.

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Temporary exclusion of certain dairymen and dairies from Part III.

30.—(1) A person—

(a) who sells milk to persons who are registered proprietors, within the meaning of the Dairy Produce Acts, 1924 to 1934, of premises registered under the said Acts and who are holders of special designation licences granted under Part IV of this Act, and

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(b) who sells milk to no other persons,
shall be deemed for the purposes of this Part of this Act not to
carry on the business of dairyman, and the premises of such
person shall be deemed for the purposes of this Part of this Act
5 not to be a dairy.

(2) The Minister may, with the consent of the Minister for
Agriculture, make at any time an order declaring that sub-section
(1) of this section shall cease to be in force on and after a
specified date and thereupon on and after such date the said
10 sub-section (1) shall cease to be in force.

31.—(1) The Minister may from time to time by order make
regulations in relation to all or any of the following matters:—

Regulations in
relation to
dairies and
milk.

- (a) the construction of dairies;
- 15 (b) the lighting ventilation drainage and water supply of
dairies;
- (c) the cleansing of dairies, vessels, machines, or vehicles used
in connection with the business of dairyman, and the
precautions to be taken to secure their cleanliness;
- 20 (d) the precautions to be taken for the protection of milk
against contamination or infection;
- (e) the manner of cooling milk;
- (f) the conveying and distribution of milk;
- (g) the labelling, marking, or identifying of receptacles for
milk;
- 25 (h) the manner of closing receptacles used for the carriage
or delivery of milk;
- (i) the milking of animals and the utensils, and machines
used for that purpose;
- 30 (j) the inspection of dairies, of vessels, machines and vehicles
used in connection with the business of dairyman, and
of persons who have access to dairies or to such vessels,
machines or vehicles;
- (k) the persons by whom such inspections are to be carried out;

and such regulations may be either special or general and may be
35 made in relation to the whole of Saorstát Eireann or any specified
part thereof.

(2) The word "milk" where it occurs in this section means milk
intended to be or in the course of being sold.

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

(4) If any person acts in contravention of or fails to comply
with any regulation made under 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
45 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.

50 (5) An offence under this section may be prosecuted by or at the
suit of the sanitary authority within whose sanitary district the
offence was committed as prosecutor.

32.—(1) The Minister, with the concurrence of the Minister
for Agriculture, may from time to time by order make regulations
55 prohibiting the sale, except under a special designation, within
the meaning of Part IV of this Act, and under and in accordance
with a special designation licence granted under the said Part IV,
of any milk which has been heated to a temperature higher than
the temperature specified in such regulations or has been
60 pasteurised.

Restriction on
sale of
pasteurised
etc. milk.

(2) If any person acts in contravention of any regulation made under 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

(3) An offence under this section may be prosecuted by or at the suit of the sanitary authority within whose sanitary district the offence was committed as prosecutor. 10

Prohibition of sale of milk except under special designation.

33.—(1) The Minister may, on the application of the sanitary authority of a sanitary district, from time to time by order under this sub-section prohibit the sale of milk, in case such district is an urban sanitary district, within the meaning of the Public Health Acts, 1878 to 1931, in such district or, in case such district is a rural sanitary district, within the meaning of the said Acts, either (as may be specified in such order) in such district or a specified part thereof, unless such milk is sold under a special designation, within the meaning of Part IV of this Act. 15 20

(2) Where an order has been made under the immediately preceding sub-section in relation to any sanitary district or a part thereof, the Minister may, on the application of the sanitary authority of such sanitary district, by order under this sub-section revoke such first-mentioned order. 25

(3) The following provisions shall have effect in relation to an application by a sanitary authority for an order under this section, that is to say:—

(a) such sanitary authority shall, before making such application, give such public notice as may be prescribed of their intention to make such application; 30

(b) the making of such application shall be—

(i) in the case of the county borough of Dublin or the borough of Dun Laoghaire, a reserved function for the purposes of the Local Government (Dublin) Act, 1930 (No. 27 of 1930), and 35

(ii) in the case of the county borough of Cork, a reserved function for the purposes of the Cork City Management Act, 1929 (No. 1 of 1929), and 40

(iii) in the case of the county borough of Limerick, a reserved function for the purposes of the Limerick City Management Act, 1934 (No. 35 of 1934).

(4) If any person acts in contravention of any order made under sub-section (1) of this section and for the time being in force 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. 45 50

(5) An offence under this section may be prosecuted by or at the suit of the sanitary authority within whose sanitary district the offence was committed as prosecutor. 55

Inspection of animals.

34.—(1) The Minister may from time to time by order make regulations in relation to the inspection of animals in dairies by veterinary officers or other registered veterinary surgeons.

(2) Regulations under this section may authorise the person making the inspection to take from any animal specimens or material for examination and to require any animal to be milked in his presence and to take samples of the milk and to 60

require that the milk from any particular teat shall be kept separate and to take separate samples thereof.

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

5 (4) If any person acts in contravention of or fails to comply with any regulation made under 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
10 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) An offence under this section may be prosecuted by or at the
15 suit of the sanitary authority within whose sanitary district the offence was committed as prosecutor.

PART IV.

SALE OF MILK UNDER SPECIAL DESIGNATIONS.

20 **35.**—(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
25 force.

Special designation licences.

(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:—

- 30 (a) the grant of licences (in this Part of this Act referred to as special designation licences) to sell milk under such special designation;
- (b) the authorities (including the Minister) to grant such licences;
- 35 (c) the form of such licences;
- (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;
- 40 (g) the terms and conditions (including revocation and suspension) subject to which such licences are to be granted;
- (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
45 the concurrence of the Minister for Agriculture.

36.—(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
50 collected in money and taken in such manner as the Minister for Finance may from time to time direct, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(3) The Public Offices Fees Act, 1879, shall not apply in respect
55 of any fees payable under this section to the Minister.

(4) 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.

(5) In making regulations in relation to the fee referred to in sub-section (1) of this section as prescribed, different fees may be prescribed in respect of different classes of special designation licences and in respect of special designation licences granted by the Minister and other authorities.

5

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

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

(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,

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

15

(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 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.

25

Restriction on descriptions to be applied to milk on sale.

38.—(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 prescribed by regulations made under this section and for the time being in force.

30

(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.

40

(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.

45

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

50

Reports by sanitary authorities.

39.—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.

55

PART V.

PREVENTION OF DISEASE LIKELY TO BE CAUSED BY INFECTED MILK.

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

- 5 (a) each of the following diseases, that is to say, tuberculosis, typhoid fever, paratyphoid fever, diphtheria, membranous croup and scarlatina, and Diseases to which Part V applies.
- 10 (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.

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

- 15 (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.

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

20 (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
25 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.

30 41.—(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
35 obtained is or are kept, and thereupon the following provisions shall have effect, that is to say:—

40 (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 officer to accompany him and to examine the animals therein, and

45 (b) if such dairy is situate in another sanitary district, he shall forthwith by the most expeditious means available inform the medical officer of such other sanitary district 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:—

50 (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 officer to accompany him and to examine the animals therein, and

55 (ii) he shall report to the sanitary authority whose medical officer he is and to the medical officer from whom such information was received, the result of such examination and any action taken by him under the next following sub-section.

(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 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 or allowing any other person to sell any milk from such dairy or from any particular animal or animals therein so long as such order is in force. 5 10

(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:— 15

(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. 20

(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. 25

(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 service. 30

(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. 35

(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; 40

(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 any person who, immediately before the making of such order, was an employee of the appellant, or the withdrawal of such order has been unreasonably neglected or refused and such determination shall be conclusive, 45 50

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

(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 or that of any person who, immediately before the making of such order, was an employee of such dairyman, 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; 55 60

(b) every person who, immediately before the making of such order was an employee of such dairyman shall, unless such order was made in consequence of any neglect or default by himself or by such dairyman, 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;

10 (c) such dairyman and every person who, immediately before the making of such order, was an employee of 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.

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

20 (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;

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

30 (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.

35 (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 (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
50 in that behalf by the sanitary authority of either such district.

42.—(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,
55 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
60 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.

Neglect of
employee to
inform dairyman
of milk
becoming
infected.

43.—Where—

5

(a) any milk, which is kept by a dairyman for the purposes of being sold, becomes infected with a disease to which this Part of this Act applies, and

(b) any person who is employed by such dairyman for the purposes of his business as a dairyman, while such milk was so kept by such dairyman, either knew or had reasonable grounds for suspecting that such milk had become so infected, and

(c) such person fails or neglects to inform such dairyman forthwith of such knowledge or grounds of suspicion,

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 to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding six months or to both such fine and imprisonment.

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

44.—(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.

(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.

Prohibition of
access to milk by
infected persons.

45.—(1) If any person, who has been infected with a disease to which this Part of this Act applies, has, while so infected, access to milk in a dairy, such person shall, unless he proves to the satisfaction of the Court (i) that he did not know or could not by the exercise of reasonable care have known that he had been so infected, or (ii) that, before having such access, he informed the owner of such dairy that he had been so infected, be guilty of an offence under this section.

(2) If any person, who has been exposed to infection with a disease to which this Part of this Act applies has, within fourteen days after such exposure, access to milk in a dairy, such person shall, unless he proves to the satisfaction of the Court (i) that he did not know or could not by the exercise of reasonable care have known of such exposure or (ii) that, before having such access, he informed the owner of such dairy of such exposure, be guilty of an offence under this section.

(3) If any person, who resides in the same house as a person (in this sub-section referred to as the infected person) who has been infected with a disease to which this Part of this Act applies, has, while the infected person is so infected, access to milk in a dairy, such person shall, unless he proves to the

satisfaction of the Court (i) that he did not know or could not by the exercise of reasonable care have known that the infected person had been so infected or (ii) that, before having such access, he informed the owner of such dairy that he resided in the same
5 house as the infected person and that the infected person had been so infected, be guilty of an offence under this section.

(4) For the purposes of this section a person who is infected with a disease to which this Part of this Act applies shall be deemed to continue to be so infected until a duly qualified medical
10 practitioner has certified that such person is free from such infection.

(5) Any person who is guilty of an offence under this section shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding five pounds
15 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
20 one, to a further fine not exceeding forty shillings for each day during which the offence continues.

(6) 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.

25 **46.**—(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
30 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)
35 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
40 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
45 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
50 district the offence was committed.

PART VI.

SALE OF MILK FROM DISEASED ANIMALS.

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

- 55 (a) each of the following diseases affecting animals, that is to say:—
tuberculosis of the udder,
any tuberculous condition of the uterus,
any form of tuberculosis in which tubercle bacilli are excreted,
10 any septic condition of the uterus,
acute mastitis,
chronic mastitis,

Diseases to which Part VI applies.

actinomycosis of the udder,
anthrax,
foot and mouth disease,
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. 5

(2) The Minister may from time to time by order made under this section— 10

(a) declare any disease affecting animals to be a disease to which this Part of this Act applies;

(b) revoke any order previously made by him under this section. 15

(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. 20
25

Prohibition of sale of milk from animals suffering from a disease to which Part VI applies.

48.—(1) If any person sells the milk of any animal 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 animal 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. 30
35
40

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

PART VII. 45

BACTERIOLOGICAL EXAMINATION OF MILK.

Appointment of bacteriological examiners.

49.—(1) The Minister shall from time to time appoint such and so many qualified persons as he may think necessary to be bacteriological examiners for the purpose of this Act and the persons so appointed shall hold office during the pleasure of the Minister. 50

(2) Whenever the Minister appoints any person to be a bacteriological examiner he shall forthwith publish notice of such appointment in the *Iris Oifigiúil* and such appointment shall take effect as from the date of the publication of such notice. 55

(3) In this Act the expression "bacteriological examiner" means a bacteriological examiner appointed by the Minister under this section.

50.—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 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.

51.—(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.

(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 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 Eireann.

52.—Every bacteriological examiner shall in the prescribed manner 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 examination and test in respect of such sample.

Duty of bacteriological examiner.

PART VIII.

POWERS OF SAMPLING MILK.

53.—Each of the following persons shall be a milk sampling officer for the purposes of this Act, that is to say:—

Milk sampling officers.

(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.

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

Power to take samples of milk.

(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.

(3) Every sample of milk (not being milk which is contained in closed receptacles for sale retail in such receptacles) taken under this section shall be taken in the prescribed manner and shall be of the prescribed amount.

55.—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.

Non-interference with traffic.

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

56.—(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. 5 10

(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. 15

(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. 20 25

Division of and dealings with samples.

57.—(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 (not being milk which is contained in closed receptacles for sale retail in such receptacles) 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:— 30 35

(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; 40

(ii) retain in the prescribed manner the other bottle and if he thinks fit, send it in the prescribed manner 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— 45

(i) forward in the prescribed manner to the consignor one of the said bottles;

(ii) retain in the prescribed manner the other bottle and if he thinks fit, send it in the prescribed manner to a bacteriological examiner for examination of its contents. 50

(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 (not being milk which is contained in closed receptacles for sale retail in such receptacles) 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:— 55 60

(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; 65

5 (ii) send in the prescribed manner the other bottle to the medical officer who gave such sampling notice or, if such medical officer so requests in such sampling notice, send in the prescribed manner on behalf of such medical officer such other bottle to a bacteriological examiner for examination of its contents;

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

(i) forward in the prescribed manner to the consignor one of the said bottles;

15 (ii) send in the prescribed manner the other bottle to the medical officer who gave such sampling notice or, if such medical officer so requests in such sampling notice, send in the prescribed manner on behalf of such medical officer such other bottle to a bacteriological examiner for examination of its contents;

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 in the prescribed manner the bottle to a bacteriological examiner for examination of its contents.

25 (4) The following provisions shall have effect in relation to the taking by a sampling officer in exercise of the powers conferred on him by this Part of this Act, of a sample of milk which is contained in closed receptacles for sale retail in such receptacles, that is to say:—

30 (a) such officer shall take as such sample one of the said receptacles, and mark in the prescribed manner the receptacle so taken;

35 (b) where such receptacle is not at the time it is taken under the actual control of the seller or consignor thereof or his agent, such officer shall deliver or send by post to such seller or consignor a notice that such receptacle was taken;

40 (c) where such receptacle was not taken in pursuance of a sampling notice, such officer shall retain it, and, if he thinks fit, send it in the prescribed manner to a bacteriological examiner for examination of its contents;

(d) where such receptacle was taken in pursuance of a sampling notice—

45 (i) in case the medical officer who gave such notice so requests in such notice, such sampling officer shall send in the prescribed manner such receptacle to a bacteriological examiner for examination of its contents;

0 (ii) in any other case, such sampling officer shall send in the prescribed manner such receptacle to such medical officer who may, if he thinks fit, send it in the prescribed manner to a bacteriological examiner for examination of its contents;

55 (5) In any proceedings under this Act, a certificate purporting 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) or sub-section (4) (whichever of the said sub-sections is applicable) 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 signature of such officer, or that he was in fact such officer.

PART IX.

MISCELLANEOUS PROVISIONS.

Service and evidence of bacteriological certificate.

58.—The following provisions shall have effect in relation to proceedings under this Act in respect of a sample of milk taken and dealt with under and in accordance with Part VIII of this Act, that is to say:—

- (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; 10
- (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, adjourn the hearing on such terms as it may consider proper; 15
- (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 requires that the bacteriological examiner who gave such certificate shall be called as a witness. 20

Prohibition of sale of contaminated, etc., milk.

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

(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. 25 30 36

(3) Any milk which has an offensive taste or smell or which, on being tested in any prescribed manner, is found to contain visible offensive matter, or bacteria to a number per unit volume greater than the prescribed number, shall be deemed for the purposes of this section to be contaminated. 35

(4) 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. 40

Sale of milk in public places.

60.—(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 (as the case may be) the words "Bainne ar díol," "Uachtar ar díol" or "Bláthach ar díol." 45

(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. 50

(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. 55

Sale of separated or skimmed milk.

61.—(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. 60

(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.

(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.

62.—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.

Establishment of milk depots by sanitary authorities.

63.—(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.

Disclosure by dairymen of sources of supply of milk.

(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.

64.—(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:—

Service of documents on dairymen.

- (a) by delivering it to such dairyman;
- (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.

(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 resident at its principal office or place of business.

65.—If any person—

Obstruction of officers.

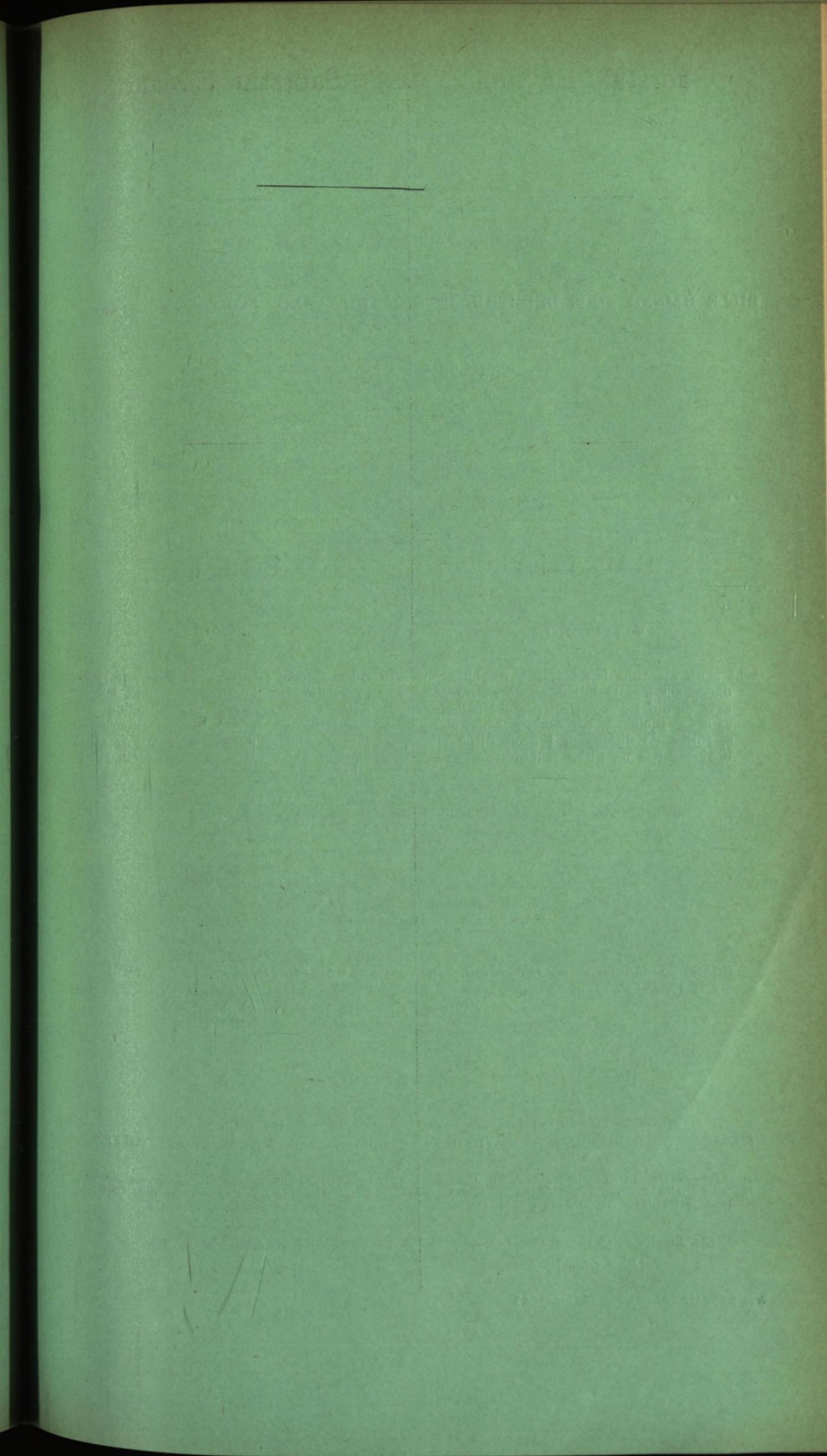
- (a) wilfully obstructs or impedes an inspector or a medical officer, or a veterinary officer, or any other officer of a sanitary authority in exercise of the powers conferred on him by or under this Act, or
- (b) fails to give such inspector or officer all reasonable assistance in his power, or
- (c)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

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, 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
41 & 42 Vic., c. 74.	The Contagious Diseases (Animals) Act, 1878.	The whole Act so far as unrepealed.
49 & 50 Vic., c. 32.	The Contagious Diseases (Animals) Act, 1886.	The whole Act so far as unrepealed.
53 & 54 Vic., c. 34.	The Infectious Disease (Prevention) Act, 1890.	Section 4.
62 & 63 Vic., c. 51.	The Sale of Food and Drugs Act, 1899.	Sections 9 and 11.
7 Edw. VII, c. 53.	The Public Health Acts Amendment Act, 1907.	Sections 53 and 54.
8 Edw. VII, c. 56.	The Tuberculosis Prevention (Ireland) Act, 1908.	Section 19.



BILLE BAINNE AGUS DEIRITHE, 1934.

MILK AND DAIRIES BILL, 1934.

BILLE

dá ngairmtear

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

*Ríthte, ag dhá Thigh an Oireachtais,
12adh Meitheamh, 1935.*

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BILL

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.

*Passed by both Houses of the Oireachtas,
12th June, 1935.*

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