

ÉIRE.

BILLE NA nUACHTARLANN (TOGAINT), 1943. CREAMERIES (ACQUISITION) BILL, 1943.

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

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ÉIRE.

BILLE NA nUACHTARLANN (TOGAINT), 1943. CREAMERIES (ACQUISITION) BILL, 1943.

BILL

entitled

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AN ACT TO ENABLE THE MINISTER FOR AGRICULTURE TO REQUIRE THE SALE OF CERTAIN CREAMERY PREMISES AND CHATTELS THEREON TO THE DAIRY DISPOSAL COMPANY, LIMITED, AND TO PROVIDE FOR CERTAIN OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID.

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BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

Short title.

1.—This Act may be cited as the Creameries (Acquisition) Act, 1943.

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General definitions.

2.—In this Act—

the expression “ the Minister ” means the Minister for Agriculture; the expression “ the Company ” means the Dairy Disposal Company, Limited;

the word “ creamery ” includes any factory or plant for the manufacture of milk products or by-products and any crude milk collecting station or depot, but does not include a creamery owned by a society registered under the Industrial and Provident Societies Act, 1893, the members of which are milk producers;

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the expression “ creamery premises ” means any land on which a creamery is situate and includes any land used in conjunction with such creamery;

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the word “ proprietor ” in relation to creamery premises means the person who is the owner of the creamery carried on on such premises;

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the word “ chattels ” means fixed and movable machinery, plant, equipment and other chattels of whatsoever kind.

Service of documents.

3.—(1) Where any document is permitted or required by this Act to be served on any person the following provisions shall apply in relation to the service of such document, that is to say:—

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(a) such document may be served either—

(i) by delivering it to such person, or

(ii) by sending it by post in a letter addressed to such person at the address where he ordinarily resides or carries on business,

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(b) where such person is absent or abroad or his address is unknown and cannot be ascertained by reasonable enquiry, such document may be served either—

(i) by delivering it to an agent of such person, or

(ii) by sending it by post in a letter addressed to an agent of such person at the address where such agent ordinarily resides.

5 (2) For the purposes of this section, a company registered under the Companies Acts, 1908 to 1924, shall be deemed to carry on business at its registered office and every other body corporate and every unincorporate body shall be deemed to carry on business at its principal office or place of business in the State.

10 4.—An offence under any section or sub-section of this Act may be prosecuted by the Minister or the Company. Prosecution of offences.

15 5.—(1) Where, before the net moneys due to the vendor in respect of the price payable under a sale order or a sale (superior interest) order have been paid to him, a State authority has sent to the Company a certificate certifying that a specified sum (in this sub-section referred to as the State debt) is due and owing by the vendor to that State authority, the following provisions shall have effect, that is to say:— Deductions in respect of State debts from price payable under sale orders or sale (superior interest) orders.

20 (a) if the State debt equals or exceeds the said net moneys, the Company shall pay the whole of the said net moneys to that State authority,

25 (b) if the State debt is less than the said net moneys, the Company shall deduct from the said net moneys a sum equal to the amount of the State debt and pay the sum so deducted to that State authority,

(c) any payment made by the Company to that State authority under this sub-section shall be deemed to be—

(i) a payment under the order by the Company to the vendor, and

30 (ii) a payment by the vendor to that State authority.

For the purposes of this sub-section the net moneys due to the vendor in respect of the price payable under a sale order or a sale (superior interest) order shall be taken to be a sum equal to the said price less—

35 (I) the amount required to satisfy incumbrances (if any), and

(II) the amount required to discharge any outgoings dischargeable by the vendor, and

40 (III) in case the said price was determined by arbitration under this Act and the arbitrator has directed the vendor to pay a sum towards the costs and expenses of the Company in the arbitration proceedings or has directed the vendor to pay the said costs and expenses of the Company as taxed by a Taxing Master of the High Court, the amount payable to the Company under the direction.

(3) Each of the following shall be deemed to be a State authority for the purposes of this section, that is to say:—

(a) a Minister of State,

50 (b) the Revenue Commissioners,

(c) the Irish Land Commission,

(d) the Commissioners of Public Works in Ireland.

55 6.—(1) All expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses of the Minister.

(2) Where any expenses are incurred by the Minister in the administration of this Act, the Minister, after consultation with the Minister for Finance, may require the Company to repay to him either (as he thinks fit) all or any part of such expenses and the Company shall comply with any such requirement. 5

(3) All moneys paid to the Minister under sub-section (2) of this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

PART II. 10

ACQUISITION BY THE COMPANY OF CREAMERY PREMISES AND CHATTELS THEREON.

Particulars in relation to creamery premises and chattels thereon.

7.—(1) The Company, with the consent of the Minister and the Minister for Finance, may serve upon the proprietor of any creamery premises a notice requiring such proprietor to furnish to the Company within a specified time (not being less than twenty days from such service)— 15

(a) an abstract (with copies of all abstracted documents) of his title to the said creamery premises, and

(b) an inventory of the chattels on the said creamery premises, 20 and

(c) a statement whether any and, if any, which of those chattels are held by him under contracts of hire or hire purchase and particulars of such contracts, if any.

(2) Where the proprietor of creamery premises complies with a notice served on him under this section the Company shall pay to him all costs necessarily and properly incurred by him in relation to such compliance within thirty days after such costs have been taxed by a Taxing Master of the High Court. 25

(3) If any person upon whom a notice has been served under this section fails or neglects to comply with such notice such person shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. 30

(4) Where— 35

(a) a person is convicted of an offence under sub-section (3) of this section by reason of his failure or neglect to do the things specified in a notice served on him under this section within the time specified in the notice, and

(b) the said things remain, after the date of such conviction, undone by him, 40

such person shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for each day, after the date of such first-mentioned conviction, on which the said things remain undone by him, and such offence shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time. 45

Inspection of creamery premises.

8.—(1) An authorised person may at any reasonable time enter on any creamery premises and inspect such premises and any chattels thereon. 50

(2) If any person obstructs or interferes with an authorised person exercising any power conferred on an authorised person 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 five pounds. 55

(3) In this section the expression "authorised person" means a person appointed by the Company to be an authorised person for the purposes of this section.

Sale orders in relation to creamery premises and chattels thereon.

9.—(1) The Minister, if he thinks fit, may, on the application of the Company and with the consent of the Minister for Finance, make an order (in this Act referred to as a sale order) requiring the proprietor of any creamery premises to sell to the Company and the Company to purchase from such proprietor at a price to be determined under this section—

- (a) the estate and interest of such proprietor in the said creamery premises, free from incumbrances, and
- (b) all chattels on the said creamery premises not held under hire or hire-purchase contracts, and
- (c) the rights of such proprietor under all (if any) such contracts.

(2) Every application for a sale order shall be accompanied by a draft of the proposed order.

(3) In this Act the expression "the vendor" in relation to any sale order means the person required by the sale order to sell creamery premises, chattels and rights the subject of the order.

(4) A sale order may contain such provisions as the Minister thinks necessary or proper for giving effect thereto.

(5) Whenever the Minister proposes to make a sale order in relation to any creamery premises and the chattels thereon, he shall not less than ten days before making the order publish in the *Iris Oifigiúil* notice of his intention to make such order, and any person having any claim affecting the estate and interest of the vendor in such creamery premises or chattels by way of mortgage or otherwise, who has not later than seven days after the date of such publication furnished to the Company particulars of his claim, shall be entitled to make representations to the Minister or, if the price to be paid for such creamery premises and chattels is to be determined by an arbitrator, the arbitrator in relation to the said price.

(6) Whenever the Minister makes a sale order in relation to any creamery premises and the chattels thereon, he shall cause copies of the order, sealed with his official seal, to be served on the vendor and the Company and, as on and from the date on which a copy of the order is served on the vendor, the vendor and the Company shall be deemed to have entered into an agreement for the sale of the said creamery premises, the chattels thereon not held under hire or hire-purchase contracts and the rights of the vendor under all such contracts (if any) in accordance with the terms of the order.

(7) Whenever the Minister makes a sale order in relation to any creamery premises and the chattels thereon, the price to be paid therefor shall be determined in accordance with the following provisions, that is to say:—

(a) in case the vendor and the Company agree upon the said price and so inform the Minister not later than twenty days after the service of a copy of the order on the vendor, and the Minister, after consultation with the Minister for Finance, and after consideration of any representations in relation to the said price made under sub-section (5) of this section, confirms such agreement, the said price shall be the price so agreed upon,

(b) in any other case the following provisions shall have effect, that is to say:—

(i) the said price shall be determined by an arbitrator whose determination shall be final and the arbitrator shall be such person as may be agreed upon by the vendor and the Company or, in default of agreement, an official arbitrator for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919,

(ii) in determining the said price the arbitrator shall take into account the goodwill attached to any business carried on on the said creamery premises,

- (iii) the arbitrator may, as respects the costs and expenses of the parties in any proceedings under this paragraph, by his award and at his discretion—
 - (I) direct the Company to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the vendor, or 5
 - (II) direct the vendor to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the Company, or
 - (III) direct the Company to pay the costs and expenses of the vendor as taxed by a Taxing Master of the High Court, or 10
 - (IV) direct the vendor to pay the costs and expenses of the Company as taxed by a Taxing Master of the High Court, or 15
 - (V) direct the vendor and the Company respectively to abide their own costs and expenses,
- (iv) when the arbitrator directs the vendor to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the Company or directs the vendor to pay the costs and expenses of the Company as taxed by a Taxing Master of the High Court, the Company may deduct the amount payable to them under the direction from the said price, 20 25
- (v) there shall be paid by the Minister to the arbitrator such remuneration and expenses (if any) as the Minister for Finance may direct.

(8) Where the Minister makes a sale order in relation to any creamery premises, chattels thereon, and rights under hire or hire-purchase contracts (if any) and the sale is completed in accordance with the order, the Company shall pay to the vendor all costs necessarily and properly incurred by the vendor in relation to the said sale (other than, in case the price of such creamery premises, chattels and rights has been determined by arbitration, the vendor's costs of the arbitration), less the amount of any costs paid or payable by the Company under section 7 of this Act in relation to the said creamery premises, chattels and rights. 30 35

(9) Any creamery acquired under this section by the Company shall be deemed, for the purposes of the Creamery Act, 1928 (No. 26 of 1928), to have been acquired with moneys provided by the Oireachtas. 40

PART III.

ACQUISITION BY THE COMPANY OF SUPERIOR INTERESTS IN CREAMERY PREMISES ACQUIRED UNDER PART II. 45

Definitions for purposes of Part III.

10.—In this Part of this Act—

the expression "acquired leasehold premises" means any creamery premises a leasehold interest (including an interest under any contract of tenancy) wherein has been sold or is about to be sold to the Company under a sale order; 50

the expression "superior interest" means in relation to any acquired leasehold premises any estate or interest therein superior to the leasehold interest therein sold or about to be sold to the Company.

Particulars of superior interests in acquired leasehold premises.

11.—(1) The Company, with the consent of the Minister and the Minister for Finance, may serve on any person entitled to a superior interest in any acquired leasehold premises a notice requiring such person to furnish to the company within a specified time (not being less than twenty days from such service) an abstract (with copies of all abstracted documents) of his title to that superior interest. 55 60

(2) Where a person complies with a notice served on him under this section the Company shall pay to him all costs necessarily and properly incurred by him in relation to such compliance within thirty days after such costs have been taxed by a Taxing Master of the High Court.

(3) If any person upon whom a notice has been served under this section fails or neglects to comply with such notice, such person shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.

(4) Where—

(a) a person is convicted of an offence under sub-section (3) of this section by reason of his failure or neglect to do the things specified in a notice served on him under this section within the time specified in the notice, and

(b) the said things remain, after the date of such conviction, undone by him,

such person shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for each day, after the date of such first-mentioned conviction, on which the said things remain undone by him and such offence shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time.

12.—(1) The Minister, if he thinks fit, may on the application of the Company and with the consent of the Minister for Finance make an order (in this Act referred to as a sale (superior interest) order) requiring the person entitled to any superior interest in any acquired leasehold premises to sell to the Company and the Company to purchase from such person, at a price to be determined under this section, such superior interest free from incumbrances.

Sale of superior interests in acquired leasehold premises.

(2) Every application for a sale (superior interest) order shall be accompanied by a draft of the proposed order.

(3) In this Act the expression "the vendor" in relation to any sale (superior interest) order means the person required by the order to sell the superior interest to which the order relates.

(4) A sale (superior interest) order may contain such provisions as the Minister thinks necessary or proper for giving full effect thereto.

(5) Whenever the Minister proposes to make a sale (superior interest) order in relation to any superior interest, he shall not less than ten days before making the order publish in the *Iris Oifigiúil* notice of his intention to make such order, and any person having any claim affecting such superior interest by way of mortgage or otherwise, who has not later than seven days after the date of such publication furnished to the Company particulars of his claim, shall be entitled to make representations to the Minister or, if the price to be paid for such superior interest is to be determined by an arbitrator, the arbitrator in relation to the said price.

(6) Whenever the Minister makes a sale (superior interest) order in relation to any superior interest, he shall cause copies of the order, sealed with his official seal, to be served on the vendor and the Company and, as on and from the date on which a copy of the order is served on the vendor, the vendor and the Company shall be deemed to have entered into an agreement for the sale of the said superior interest in accordance with the terms of the order.

(7) Whenever the Minister makes a sale (superior interest) order in relation to any superior interest the price to be paid therefor shall be determined in accordance with the following provisions, that is to say:—

(a) in case the vendor and the Company agree upon the said price and so inform the Minister not later than twenty days after the service of a copy of the order on the vendor and the Minister, after consultation with the Minister for Finance, and after consideration of

any representations in relation to the said price made under sub-section (5) of this section, confirms such agreement, the said price shall be the price so agreed upon,

(b) in any other case the following provisions shall have effect, that is to say:— 5

(i) the said price shall be determined by an arbitrator whose determination shall be final and the arbitrator shall be such person as may be agreed upon by the vendor and the Company or, in default of agreement, an official arbitrator for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, 10

(ii) the costs of the vendor and the Company in any proceedings under this paragraph shall be in the discretion of the arbitrator, and the arbitrator may by his award direct the said costs of the vendor to be paid by the Company or direct the said costs of the Company to be paid by the vendor and may, in either case, fix the amount of such costs, 15

(iii) the arbitrator may, as respects the costs and expenses of the parties in any proceedings under this paragraph, by his award and at his discretion— 20

(I) direct the Company to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the vendor, or 25

(II) direct the vendor to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the Company, or

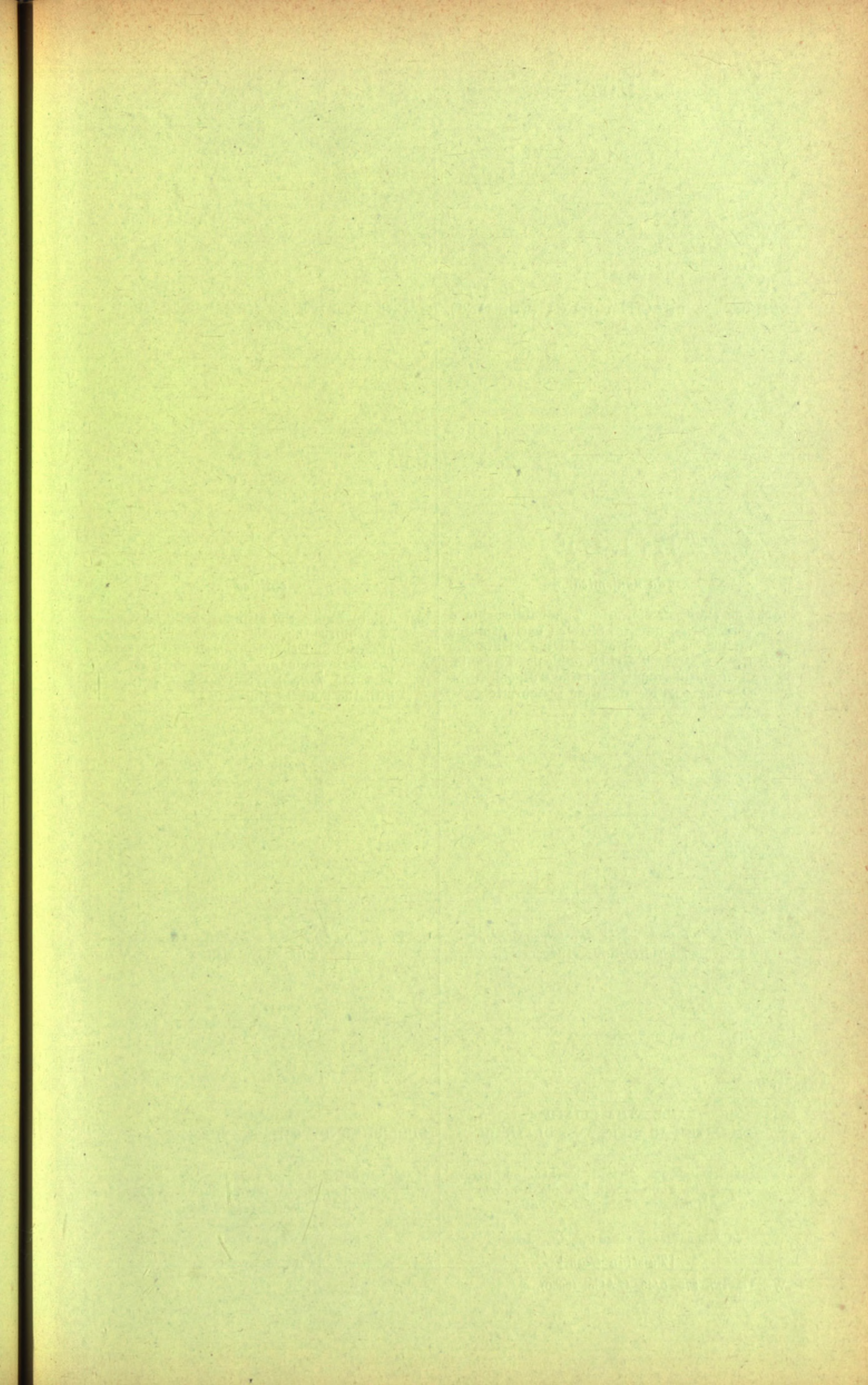
(III) direct the Company to pay the costs and expenses of the vendor as taxed by a Taxing Master of the High Court, or 30

(IV) direct the vendor to pay the costs and expenses of the Company as taxed by a Taxing Master of the High Court, or

(V) direct the vendor and the Company respectively to abide their own costs and expenses, 35

(iv) when the arbitrator directs the vendor to pay a sum (to be measured by the arbitrator) towards the costs and expenses of the Company or directs the vendor to pay the costs and expenses of the Company as taxed by a Taxing Master of the High Court, the Company may deduct the amount payable to them under the direction from the said price. 40

(8) Where the Minister makes a sale (superior interest) order in relation to any superior interest and the sale of the said superior interest is completed in accordance with the order, the Company shall pay to the vendor all costs necessarily and properly incurred by the vendor in relation to the said sale (other than, in case the price of the said superior interest has been determined by arbitration, the vendor's costs of the arbitration), less any costs paid or payable by the Company under section 11 of this Act in relation to such superior interest. 45 50



Éire.

BILLE NA nUACHTARLANN (TOGAINT),
1943.

BILLE

da ngairmtear

Acht dá chumasú don Aire Talmhaidheachta a cheangal go ndíolfaí áitreibh uachtarlainne áirithe agus áirnéis áirithe ionta le Cuideachta na Dáirí-Dheighleála, Teoranta, agus do dhéanamh socrúithe i dtaobh nithe eile bhaineas leis na nithe réamhráite.

*Ritthe ag dhá Thigh an Oireachtais,
20adh Bealtaine, 1943.*

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Éire.

CREAMERIES (ACQUISITION) BILL,
1943.

BILL

entitled

An Act to enable the Minister for Agriculture to require the sale of certain creamery premises and chattels thereon to the Dairy Disposal Company, Limited, and to provide for certain other matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
20th May, 1943.*

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