New South Wales.



ANNO OCTAVO

GEORGII VI REGIS.

Act No. 5, 1944.

An Act to amend the Pure Food Act, 1908, and certain other Acts, in certain respects; and for purposes connected therewith: [Assented to, 4th April, 1944.]

RE it enacted by the King's Most Excellent Majesty,) by and with the advice and consent of the Legislative Council and Legislative Assembly or New South Wales in Parliament assembled, and by the authority of the same, as follows :--

1. (1) This Act may be cited as the "Pure Food Short title, (Amendment) Act, 1944."

commencement, and citation.

(2) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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(3) The Pure Food Act, 1908, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Pure Food Act, 1908-1944.

2. The Principal Act is amended—

Amendment of Act No. \$1, 1908. Sec. 4. (Interpretation.)

 (a) (i) by omitting from section four the definition of "Appliance" and by inserting in lieu thereof the following definition:—

> "Appliance" includes the whole or any part of any utensil, machinery, instrument, apparatus or article used or intended for use in or for the making, manufacturing, keeping, preserving, preparing, handling, serving, or supplying of any food or drug, or which in the course of such use may come into contact with any food or drug; the term also includes any instrument or contrivance which is held out to any person or to the public as of use for curative purposes, or in relieving human suffering, or in overcoming or alleviating any physical defect.

- (ii) by inserting in the same section at the end of the definition of "Drug" the words "and any substance or article for consumption or use by man which the Governor may by proclamation published in the Gazette declare to be a drug";
- (iii) by inserting in the same section at the end of the definition of "Food," or "article of food" the words "and any substance or article used for consumption by man which the Governor may by proclamation published in the Gazette declare to be food or an article of food";

(iv)

Act No. 5, 1944.

- (iv) (a) by inserting in the same section in the definition of "To sell" after the words "deliver for sale" the words "or supply as part of a meal where consideration is to be received by the supplier for such supply either specifically or as part of a service contracted for";
 - (b) by inserting at the end of the same definition the words "or for purposes of analysis or other examination in pursuance of this Act'';
- (b) (i) by omitting from paragraph (f) of section Sec. 5. five the words "or stained" and by inserting (Adulterain lieu thereof the words "stained, pre- false pared, or treated";
 - description.)
 - (ii) by omitting from paragraph (m) of the same section the words "attached thereto" and by inserting in lieu thereof the words "or written matter attached thereto or enclosed therewith";
 - (iii) by inserting in the same paragraph after the words "contained therein" the words "or its physiological, curative, or therapeutic effect."
- 3. The Principal Act is further amended—

Further of Act No. 31, 1908.

(a) by inserting next after section ten the following New sec. new section :---

10A. No person shall in or from New South Tender or Wales tender or despatch or offer to tender or despatch for or on sale any food, drug, or article etc., adulwhich is adulterated or falsely described, or terated or falsely which is packed or enclosed for sale or labelled, described. branded or marked in any manner contrary to cf. 5 Geo. or not in compliance with any provision of this (Q'ld), s. 3. Act, whether the actual sale shall be effected or is to become effective in New South Wales or elsewhere:

10A. despatch of food,

Provided

Provided that if the actual sale was effective or is to be effective elsewhere than in New South Wales it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective.

(b) by omitting from subsection three of section twelve the word "defective" wherever occurring and by inserting in lieu thereof the word "different";

- (c) (i) by inserting in subsection one of section thirteen after the words "sound condition" the words "and shall comply with the prescribed standards";
 - (ii) by inserting at the end of the same section the following new subsection:—

(3) No person shalt sell any food or drug which is a mixture in respect of which a standard has been prescribed under this Act unless the mixture is in accordance with such standard.

- (d) (i) by inserting in the short heading to section fourteen after the word "food" the words "or drug";
 - (ii) by inserting in subsection one of the same section after the word "food" where firstly and secondly occurring the words "or drug";
 - (iii) by inserting at the end of the same subsection the following words:--

No person shall, after the expiration of six months from the commencement of the Pure Food (Amendment) Act, 1944, sell in a package any drug unless such a statement or label is written on or attached to such package as required by this section.

Nothing in this subsection shall apply to any package of drug where such drug is supplied by prescription or order signed by

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Sec. 12. (Selling goods not of nature demanded defence.)

Sec. 13. (Sale of mixture.)

Sec. 14. (Packages to be labelled.)

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a legally qualified medical practitioner for any person then under his care and treatment.

- (iv) by inserting in subsection three of the same section after the word "food" the words "or drugs":
- (e) (i) by omitting from subsection one of section sec. 17. seventeen the words "which by reason of (Prohibiits inactivity or inefficiency":
 - (ii) by omitting from the same subsection the words "of cure";
- (f) by inserting next after section nineteen the fol- New sec. lowing new section :--

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19A. (1) The board may by notification in the Packing Gazette prohibit the packing for sale of any dis- fectant or infectant or poisonous substance in any con- poisonous tainer which bears upon it any brand, mark or statement which may be capable of misleading a purchaser into the belief that the contents of such container are for the purpose of human consumption.

(2) No person shall sell or pack for sale any disinfectant or poisonous substance in respect of which a notification under subsection one of this section is in force in any container bearing any such brand, mark or statement.

(g) by inserting in section twenty after the words Sec. 20. "in private" the words and figures "Division 7 (Appeal.) of Part III of the District Courts Act, 1912-1936, shall apply, mutatis mutandis, to any such appeal.

The judge may make such order for the payment of the costs and charges of and incidental to the appeal as to him seems just.

Such costs and charges shall be taxed by such officer as the judge directs and may be recovered in like manner as any debt adjudged by the judge of a district court to be paid can be recovered."

tion of sale of injurious drugs, etc.)

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Sec. 21. (Milk of infected eow.)

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- (h) (i) by omitting from subsection one of section twenty-one the words "the milk of" and by inserting in lieu thereof the words "milk or any product thereof from";
 - (ii) by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof";
 - (iii) by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from";
 - (iv) by inserting after the same subsection the following new subsection:--

(2A) A person who sells milk or any product thereof shall not knowingly allow any diseased cattle to be in his milking herd or on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts.

4. The Principal Act is further amended—

- (a) (i) by inserting at the end of subsection six of section twenty-two the words "and why he should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";
 - (ii) by inserting in subsection seven of the same section after the words "shall be destroyed" the words "The said magistrate or justices may further order that such owner or person shall pay the reasonable expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";
 - (iii) by inserting in subsection nine of the same section after the words "licensed house" the word "boarding-house";

Further amendment of Act No. 81, 1908. Sec. 22. (Entry and inspection.)

(b)

(b) by omitting from subsection two of section sec. 24 (2). twenty-four the words "and shall retain one of (Samples.) the said parts for future comparison, and submit the third part to an analyst," and by inserting in lieu thereof the words "and submit one of the said parts to an analyst, and shall retain the third part for future comparison and for such examination or analysis as a magistrate may direct."

5. The Principal Act is further amended-

- of Act No. 31, 1908. (a) by inserting in paragraph (a) of section thirty- Sec. 38 (a). eight after the word "Act" the words "or upon (Obstrucdemand by an officer or authorised person to state his name and place of abode refuses so to do or states a false name or place of abode":
- (b) by inserting next after section thirty-nine the New sec. following new section :---

39A. (1) Where any person engaged in the prover to sale of any food, drug or article has been con-victed of an offence against this Act the court may, on such conviction or at any time thereafter, upon application made as in this section provided, by order, prohibit such person from engaging in the sale of any food, drug or article for such period as the court may determine.

(2) An application for an order under this section shall be made by an officer specifically authorised in that behalf by the Minister.

An authority to make such application, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

(3) Any person who engages in the sale of any food, drug or article in contravention of an order made under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

(4) Any person dissatisfied with an order made under subsection one of this section

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officers.)

Further amendment

may appeal from the same under and in accordance with Part V of the Justices Act, 1902, as amended by subsequent Acts, and the provisions of that Part shall, mutatis mutandis, apply to and in respect of such appeal as if the same were an appeal from a determination or order of a justice or justices.

- (c) by inserting in section forty-four after the word "analysis" the words "or examination":
- (d) by omitting from subsection three of section fifty-one the words "ten pounds" and by inserting in lieu thereof the words "twenty pounds";
- (e) by inserting in section fifty-two after the word "food" wherever occurring the words "or drug'';
- (f) (i) by omitting from subsection one of section fifty-four the words "articles of food, or to packages containing such articles," and by inserting in lieu thereof the words "any food or drug, or to packages containing any . food or drug":
 - (ii) by inserting in the same subsection after the words "payment of analysts" the following new paragraph:
 - prohibiting the publication, use or exhibition in any manner whatsoever, of any printed or pictorial matter with respect to any food or drug which is false or misleading or likely to mislead;
- (iii) by inserting at the end of the same subsection the following new paragraphs:
 - prescribing requirements to be observed as to the situation and construction of premises used for the manufacture. preparation, storage or packing of any food, drug or article, and securing the sanitation of such premises. and the provision of satisfactory facilities BOST 1

Sec. 44. (Evidence.)

Sec. 51 (3). (Refusing information.)

Sec. 52. (Suggestive names.)

Sec. 54. (Regulations.)

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Act No. 5, 1944.

Pure Food (Amendment).

facilities for protecting such food or drug from contamination;

- prohibiting the placing in food for sale or in packages of such food, of any toy, coin or other thing, which, if swallowed or taken into the mouth, might be harmful or injurious to the consumer.
- 6. (1) The Principal Act is further amended-

Further amendment of Act No. 31, 1908. sec. 47.

(a) by omitting section forty-seven and by inserting Subst. in lieu thereof the following section :---

47. (1) Where any person is prosecuted Guarantee, under this Act for the sale of any food, or drug, defence. or article which is adulterated or falsely described, or is mixed, coloured, composed, or constituted in contravention of any provision of this Act, he shall be entitled to be discharged from such prosecution upon proving-

- (a) that he has received from the person from whom he purchased such food, or drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (b) that he had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (c) that he sold it in the same state as when he purchased it,

(i) The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.

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- (ii) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades.
- (iii) A guarantee may be general or specific.
- (iv) A general guarantee shall apply to the sale of the description of goods or classes of goods named therein.
- (v) A specific guarantee shall apply to the sale of specific goods and shall refer to a sale note, bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same.
- (vi) A guarantee, general or specific, shall not be available as a defence unless the defendant has, within seven days after service of the summons, sent to the informant a copy of such guarantee with a written notice stating that he intends to rely on the same as a defence, and specifying the name and place of business of the person giving the guarantee, and the name under which he trades, and has also sent a like notice of his intention to the person giving the guarantee.

The person by whom any guarantee is alleged to have been given under this section shall be entitled to offer evidence at the hearing, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

The form of any guarantee under this section may be prescribed.

(2) Any person who gives any such guarantee which is false shall, in addition to any penalty for the sale of any food, or drug, or article in contravention of this Act, be guilty of an offence against this Act, unless he proves that when he gave the guarantee he had reasonable grounds for believing and did in fact believe that

Penalty on guarantor.

that the statements or descriptions contained therein were true.

A prosecution of any person for an offence against this Act by reason of giving a false guarantee may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by this or any other Act for instituting prosecutions.

(3) Proceedings under subsection two Proceedings of this section against the person who has given for such the guarantee may be taken before a court having jurisdiction in the place where the food, or drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

(4) No person shall, after a date to be Existing appointed by the Governor and notified by guarantees. proclamation published in the Gazette, place on any package of goods sold by him any serial number allotted to a guarantee in pursuance of paragraph (d) of subsection one of the section which this section replaces, or the words "Guaranteed under the Pure Food Act, 1908", or words of similar import, or any words or expression signifying, suggesting, or implying that the contents of any such package are guaranteed under the provisions of this Act or the regulations, or any other law.

(b) by inserting in section fifty after the words Sec. 50. "falsely described" where secondly occurring the ^{(Prosecution of employee for} words "or was mixed, coloured, composed or ^{elling} adulterated constituted in contravention of any provision of ^{article.)} this Act".

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection two of section one of this Act.

penalty.

By Authority: ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1944. [6d.]



I certify that this PUBLIC BILL, which originated in the LEGIS-LATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. MCCOURT, Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 30 March, 1944.



New South Wales.

ANNO OCTAVO

Act No. 5, 1944.

An Act to amend the Pure Food Act, 1908, and certain other Acts, in certain respects; and for purposes connected therewith. [Assented to, 4th April, 1944.]

E it enacted by the King's Most Excellent Majesty, B by and with the advice and consent of the Legislative Council and Legislative Assembly or New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Pure Food Short title, commence-(Amendment) Act, 1944."

ment, and citation.

(2) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

Act No. 5, 1944.

Pure Food (Amendment).

(3) The Pure Food Act, 1908, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Pure Food Act, 1908-1944.

2. The Principal Act is amended—

of Act No. 31, 1908. Sec. 4. (Interpretation.)

Amendment

 (a) (i) by omitting from section four the definition of "Appliance" and by inserting in lieu thereof the following definition:—

- "Appliance" includes the whole or any part of any utensil, machinery, instrument, apparatus or article used or intended for use in or for the making, manufacturing, keeping, preserving, preparing, handling, serving, or supplying of any food or drug, or which in the course of such use may come into contact with any food or drug; the term also includes any instrument or contrivance which is held out to any person or to the public as of use for curative purposes, or in relieving human suffering, or in overcoming or alleviating any physical defect.
- (ii) by inserting in the same section at the end of the definition of "Drug" the words "and any substance or article for consumption or use by man which the Governor may by proclamation published in the Gazette declare to be a drug";
- (iii) by inserting in the same section at the end of the definition of "Food," or "article of food" the words "and any substance or article used for consumption by man which the Governor may by proclamation published in the Gazette declare to be food or an article of food";

Act No. 5, 1944.

Pure Food (Amendment). (iv) (a) by inserting in the same section in the definition of "To sell" after the words "deliver for sale" the words "or supply as part of a meal where consideration is to be received by the supplier for such supply either specifically or as part of a service contracted for"; (b) by inserting at the end of the same definition the words "or for purposes of analysis or other examination in pursuance of this Act"; (b) (i) by omitting from paragraph (f) of section Sec. 5. five the words "or stained" and by inserting (Adulterain lieu thereof the words "stained, pre- false pared, or treated"; (ii) by omitting from paragraph (m) of the same section the words "attached thereto" and by inserting in lieu thereof the words "or written matter attached thereto or enclosed therewith"; (iii) by inserting in the same paragraph after the words "contained therein" the words "or its physiological, curative, or therapeutic effect." 3. The Principal Act is further amended-Further

- of Act No. 31, 1908.
- (a) by inserting next after section ten the following New sec. 10A. new section :---

10A. No person shall in or from New South Tender or Wales tender or despatch or offer to tender or despatch of food, despatch for or on sale any food, drug, or article etc., adulwhich is adulterated or falsely described, or terated or which is packed or enclosed for sale or labelled, described. branded or marked in any manner contrary to cf. 5 Geo. or not in compliance with any provision of this (Q'ld), s. 8. Act, whether the actual sale shall be effected or is to become effective in New South Wales or elsewhere:

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Provided

description.)

Provided that if the actual sale was effective or is to be effective elsewhere than in New South Wales it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective.

- (b) by omitting from subsection three of section twelve the word "defective" wherever occurring and by inserting in lieu thereof the word "different";
- (c) (i) by inserting in subsection one of section thirteen after the words "sound condition" the words "and shall comply with the prescribed standards";
 - (ii) by inserting at the end of the same section the following new subsection:---

(3) No person shalt sell any food or drug which is a mixture in respect of which a standard has been prescribed under this Act unless the mixture is in accordance with such standard.

- (d) (i) by inserting in the short heading to section fourteen after the word "food" the words "or drug";
 - (ii) by inserting in subsection one of the same section after the word "food" where firstly and secondly occurring the words "or drug";
 - (iii) by inserting at the end of the same subsection the following words:---

No person shall, after the expiration of six months from the commencement of the Pure Food (Amendment) Act, 1944, sell in a package any drug unless such a statement or label is written on or attached to such package as required by this section.

Nothing in this subsection shall apply to any package of drug where such drug is supplied by prescription or order signed by

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(Selling goods not of nature demanded defence.)

Sec. 12.

Sec. 13. (Sale of mixture.)

Sec. 14. (Packages to be labelled.)

a legally qualified medical practitioner for any person then under his care and treatment.

- (iv) by inserting in subsection three of the same section after the word "food" the words "or drugs'';
- (e) (i) by omitting from subsection one of section Sec. 17. seventeen the words "which by reason of (Prohibition of its inactivity or inefficiency"; sale of
 - (ii) by omitting from the same subsection the injurious drugs, etc.) words "of cure":
- (f) by inserting next after section nineteen the fol- New sec. 19A. lowing new section:-

19A. (1) The board may by notification in the Packing Gazette prohibit the packing for sale of any dis- fectant or infectant or poisonous substance in any con-poisonous substance. tainer which bears upon it any brand, mark or statement which may be capable of misleading a purchaser into the belief that the contents of such container are for the purpose of human consumption.

(2) No person shall sell or pack for sale any disinfectant or poisonous substance in respect of which a notification under subsection one of this section is in force in any container bearing any such brand, mark or statement.

by inserting in section twenty after the words Sec. 20. (g)"in private" the words and figures "Division 7 (Appeal.) of Part III of the District Courts Act, 1912-1936, shall apply, mutatis mutandis, to any such appeal.

The judge may make such order for the payment of the costs and charges of and incidental to the appeal as to him seems just.

Such costs and charges shall be taxed by such officer as the judge directs and may be recovered in like manner as any debt adjudged by the judge of a district court to be paid can be recovered."

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Sec. 21. (Milk of infected cow.) (h) (i) by omitting from subsection one of section twenty-one the words "the milk of" and by inserting in lieu thereof the words "milk or any product thereof from";

- (ii) by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof";
- (iii) by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from";
- (iv) by inserting after the same subsection the following new subsection:---

(2A) A person who sells milk or any product thereof shall not knowingly allow any diseased cattle to be in his milking herd or on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts.

4. The Principal Act is further amended—

(a) (i) by inserting at the end of subsection six of section twenty-two the words "and why he should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";

- (ii) by inserting in subsection seven of the same section after the words "shall be destroyed" the words "The said magistrate or justices may further order that such owner or person shall pay the reasonable expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";
- (iii) by inserting in subsection nine of the same section after the words "licensed house" the word "boarding-house";

Further amendment of Act No. 31, 1908. Sec. 22. (Entry and inspection.)

Pure Food (Amendment). (b) by omitting from subsection two of section sec. 24 (2). twenty-four the words "and shall retain one of (Samples.) the said parts for future comparison, and submit the third part to an analyst," and by inserting

in lieu thereof the words "and submit one of the said parts to an analyst, and shall retain the third part for future comparison and for such examination or analysis as a magistrate may direct." Further amendment

5. The Principal Act is further amended-

- of Act No. 31, 1908. (a) by inserting in paragraph (a) of section thirty- sec. 38 (a). eight after the word "Act" the words "or upon (Obstruction to demand by an officer or authorised person to officers.) state his name and place of abode refuses so to do or states a false name or place of abode";
- (b) by inserting next after section thirty-nine the New sec. following new section :--

39A. (1) Where any person engaged in the Power to sale of any food, drug or article has been con-ing on of business by victed of an offence against this Act the court persons may, on such conviction or at any time there- offence against after, upon application made as in this section provided, by order, prohibit such person from engaging in the sale of any food, drug or article for such period as the court may determine.

(2) An application for an order under this section shall be made by an officer specifically authorised in that behalf by the Minister.

An authority to make such application, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

(3) Any person who engages in the sale of any food, drug or article in contravention of an order made under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

(4) Any person dissatisfied with an order made under subsection one of this section mav

may appeal from the same under and in accordance with Part V of the Justices Act, 1902, as amended by subsequent Acts, and the provisions of that Part shall, mutatis mutandis, apply to and in respect of such appeal as if the same were an appeal from a determination or order of a justice or justices.

- (c) by inserting in section forty-four after the word "analysis" the words "or examination";
- (d) by omitting from subsection three of section fifty-one the words "ten pounds" and by inserting in lieu thereof the words "twenty pounds";
- (e) by inserting in section fifty-two after the word "food" wherever occurring the words "or drug";
- (f) (i) by omitting from subsection one of section fifty-four the words "articles of food, or to packages containing such articles," and by inserting in lieu thereof the words "any food or drug, or to packages containing any food or drug";
 - (ii) by inserting in the same subsection after the words "payment of analysts" the following new paragraph:
 - prohibiting the publication, use or exhibition in any manner whatsoever, of any printed or pictorial matter with respect to any food or drug which is false or misleading or likely to mislead;
 - (iii) by inserting at the end of the same subsection the following new paragraphs:--
 - prescribing requirements to be observed as to the situation and construction of premises used for the manufacture, preparation, storage or packing of any food, drug or article, and securing the sanitation of such premises, and the provision of satisfactory facilities

Sec. 44. (Evidence.)

Sec. 51 (3). (Refusing information.)

Sec. 52. (Suggestive names.)

Sec. 54. (Regulations.)

facilities for protecting such food or drug from contamination;

- prohibiting the placing in food for sale or in packages of such food, of any toy, coin or other thing, which, if swallowed or taken into the mouth, might be harmful or injurious to the consumer.
- 6. (1) The Principal Act is further amended—

Further amendment of Act No. 81, 1908. Subst. sec. 47.

 (a) by omitting section forty-seven and by inserting subst. in lieu thereof the following section:— sec. 47.
 47. (1) Where any person is prosecuted Guarantee, when a

47. (1) Where any person is prosecuted Guarant under this Act for the sale of any food, or drug, defence. or article which is adulterated or falsely described, or is mixed, coloured, composed, or constituted in contravention of any provision of this Act, he shall be entitled to be discharged from such prosecution upon proving—

- (a) that he has received from the person from whom he purchased such food, or drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (b) that he had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (c) that he sold it in the same state as when he purchased it,

subject, however, to the following conditions :--

(i) The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.

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(ii)

Pure Food (Amendment).	
(ii) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades.	
(iii) A guarantee may be general or specific.	
(iv) A general guarantee shall apply to the sale of the description of goods or classes of goods named therein.	
(v) A specific guarantee shall apply to the sale of specific goods and shall refer to a sale note, bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same.	
(vi) A guarantee, general or specific, shall	
not be available as a defence unless the	
defendant has, within seven days after	
service of the summons, sent to the in-	
formant a copy of such guarantee with	
a written notice stating that he intends	
to rely on the same as a defence, and	
specifying the name and place of busi-	
ness of the person giving the guarantee, and the name under which he trades,	
and has also sent a like notice of his	
intention to the person giving the	
guarantee.	
The person by whom any guarantee is alleged	
to have been given under this section shall be	
entitled to offer evidence at the hearing, and	
the court may, if it thinks fit, adjourn the hear-	
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ing to enable him to do so. The form of any guarantee under this section may be prescribed.

(2) Any person who gives any such guarantee which is false shall, in addition to any penalty for the sale of any food, or drug, or article in contravention of this Act, be guilty of an offence against this Act, unless he proves that when he gave the guarantee he had reasonable grounds for believing and did in fact believe

Penalty on guarantor.

that

Act No. 5, 1944.

Pure Food (Amendment).

that the statements or descriptions contained therein were true.

A prosecution of any person for an offence against this Act by reason of giving a false guarantee may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by this or any other Act for instituting prosecutions.

(3) Proceedings under subsection two Proceedings of this section against the person who has given for such penalty. the guarantee may be taken before a court having jurisdiction in the place where the food, or drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

(4) No person shall, after a date to be Existing appointed by the Governor and notified by guarantees. proclamation published in the Gazette, place on any package of goods sold by him any serial number allotted to a guarantee in pursuance of paragraph (d) of subsection one of the section which this section replaces, or the words "Guaranteed under the Pure Food Act, 1908", or words of similar import, or any words or expression signifying, suggesting, or implying that the contents of any such package are guaranteed under the provisions of this Act or the regulations, or any other law.

(b) by inserting in section fifty after the words Sec. 50. "falsely described" where secondly occurring the (Prosecution of employee for words "or was mixed, coloured, composed or selling adulterated constituted in contravention of any provision of article.) this Act".

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection two of section one of this Act.

In the name and on behalf of His Majesty I assent to this Act.

> WAKEHURST. Governor.

Government House. Sydney, 4th April, 1944.



PURE FOOD (AMENDMENT) BILL

Schedule of the Amendment referred to in Legislative Council's Message of 22nd March, 1944.

Page 7, line 27. After "officer" insert "specifically" 37219 34-

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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT. Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 7 March, 1944.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.

> W. K. CHARLTON, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 22nd March, 1944.



New South Wales.

ANNO OCTAVO

GEORGII VI REGIS.

Act No. , 1944.

An Act to amend the Pure Food Act, 1908, and certain other Acts, in certain respects; and for purposes connected therewith.

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :--

1. (1) This Act may be cited as the "Pure Food short title, (Amendment) Act, 1944."

commence ment, and citation.

(2) This Act (other than section six) shall commence upon a day to be appointed by the Governor and 10 notified by proclamation published in the Gazette.

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(3)

Note.-The word to be inserted is printed in black letter.

Pure Food	(Amendment)	
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(3) The Pure Food Act, 1908, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Pure Food Act, 1908-1944.

2. The Principal Act is amended-5

> (a) (i) by omitting from section four the definition sec. 4. of "Appliance" and by inserting in lieu (Interpretathereof the following definition:-

> > "Appliance" includes the whole or any part of any utensil, machinery, instrument, apparatus or article used or intended for use in or for the making, manufacturing, keeping, preserving, preparing, handling, serving, or supplying of any food or drug, or which in the course of such use may come into contact with any food or drug; the term also includes any instrument or contrivance which is held out to any person or to the public as of use for curative purposes, or in relieving human suffering, or in overcoming or alleviating any physical defect.

(ii) by inserting in the same section at the end of the definition of "Drug" the words "and any substance or article for consumption or use by man which the Governor may by proclamation published in the Gazette declare to be a drug";

(iii) by inserting in the same section at the end of the definition of "Food," or "article of food" the words "and any substance or article used for consumption by man which the Governor may by proclamation published in the Gazette declare to be food or an article of food";

(iv)

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Amendment of Act No. 31, 1908.

tion.)

Pure Food (Amendment). (iv) (a) by inserting in the same section in the definition of "To sell" after the words "deliver for sale" the words "or supply as part of a meal where con-5 sideration is to be received by the supplier for such supply either specifically or as part of a service contracted for"; (b) by inserting at the end of the same definition the words "or for purposes 10 of analysis or other examination in pursuance of this Act"; (b) (i) by omitting from paragraph (f) of section Sec. 5. five the words "or stained" and by inserting (Adulterain lieu thereof the words "stained, pre- false 15 descrippared, or treated"; tion.) (ii) by omitting from paragraph (m) of the same section the words "attached thereto" and by inserting in lieu thereof the words "or written matter attached thereto or en-20 closed therewith"; (iii) by inserting in the same paragraph after the words "contained therein" the words "or its physiological, curative, or therapeutic effect." 3. The Principal Act is further amended— Further amendment 25 of Act No. 31, 1908. (a) by inserting next after section ten the following New sec. new section :---10A. 10A. No person shall in or from New South Tender or Wales tender or despatch or offer to tender or despatch despatch for or on sale any food, drug, or article etc., adulwhich is adulterated or falsely described, or terated or falsely which is packed or enclosed for sale or labelled, described. branded or marked in any manner contrary to cf. 5 Geo. VI, No. or not in compliance with any provision of this (Q'ld), s. 3. Act, whether the actual sale shall be effected or

is to become effective in New South Wales or

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elsewhere:

Provided that if the actual sale was effective or is to be effective elsewhere than in New South Wales it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective.

(b) by omitting from subsection three of section sec. 12. twelve the word "defective" wherever occurring (Selling goods and by inserting in lieu thereof the word defence.) "different";

- (c) (i) by inserting in subsection one of section Sec. 13. thirteen after the words "sound condition" (Sale of mixture.) the words "and shall comply with the prescribed standards";
 - (ii) by inserting at the end of the same section the following new subsection :---

(3) No person shall sell any food or drug which is a mixture in respect of which a standard has been prescribed under this Act unless the mixture is in accordance with such standard.

(d) (i) by inserting in the short heading to section sec. 14. fourteen after the word "food" the words (Packages to be "or drug";

labelled.)

- (ii) by inserting in subsection one of the same section after the word "food" where firstly and secondly occurring the words "or drug";
- (iii) by inserting at the end of the same subsection the following words :--

No person shall, after the expiration of six months from the commencement of the Pure Food (Amendment) Act, 1944, sell in a package any drug unless such a statement or label is written on or attached to such package as required by this section.

Nothing in this subsection shall apply to any package of drug where such drug is supplied by prescription or order signed by

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Provided

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	Pure Food (Amendment).	
	a legally qualified medical practitioner for any person then under his care and treat- ment.	
5	(iv) by inserting in subsection three of the same section after the word "food" the words "or drugs";	
10	 (e) (i) by omitting from subsection one of section seventeen the words "which by reason of its inactivity or inefficiency"; (ii) by omitting from the same subsection the words "of cure"; 	Sec. 17. (Prohibi- tion of sale of injurious drugs, etc.)
	(f) by inserting next after section nineteen the following new section:—	New sec. 19a.
15	tainer which bears upon it any brand, mark or statement which may be capable of misleading	
20	a purchaser into the belief that the contents of such container are for the purpose of human consumption.	
	(2) No person shall sell or pack for sale any disinfectant or poisonous substance in respect of which a notification under subsection	
25	one of this section is in force in any container	
•	 bearing any such brand, mark or statement. (g) by inserting in section twenty after the words "in private" the words and figures "Division 7 of Part III of the District Courts Act. 1912 	Sec. 20. (Appeal.)
30	of Part III of the District Courts Act, 1912- 1936, shall apply, mutatis mutandis, to any such	

The judge may make such order for the payment of the costs and charges of and incidental to the appeal as to him seems just.

Such costs and charges shall be taxed by such officer as the judge directs and may be recovered in like manner as any debt adjudged by the judge of a district court to be paid can be recovered."

(h)

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appeal.

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		Pure Food (Amendment).	
	(h) (i)	by omitting from subsection one of section twenty-one the words "the milk of" and by inserting in lieu thereof the words "milk or any product thereof from";	(Milk of
5	(ii)	by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof";	
10	(iii)	by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from";	
	(iv)	by inserting after the same subsection the following new subsection:—	
15		(2A) A person who sells milk or any pro- duct thereof shall not knowingly allow any diseased cattle to be in his milking herd or	
		on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts.	•
20	4. The P	rincipal Act is further amended—	Further amendment of Act No. 31, 1908.
25	(a) (i)	by inserting at the end of subsection six of section twenty-two the words "and why he should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";	(Entry and inspection.)
	(ii)	by inserting in subsection seven of the same section after the words "shall be destroyed" the words "The said magistrate or justices	6.5.
30		may further order that such owner or person shall pay the reasonable expenses incurred by the officer in the examination, seizure, and destruction of the article,	
35	(iii)	package, or vessel''; by inserting in subsection nine of the same section after the words "licensed house" the word "boarding-house";	
	· ·	(b)	

(b) by omitting from subsection two of section sec. 24 (2). twenty-four the words "and shall retain one of (Samples.) the said parts for future comparison, and submit the third part to an analyst," and by inserting in lieu thereof the words "and submit one of the said parts to an analyst, and shall retain the third part for future comparison and for such examination or analysis as a magistrate may direct."

5. The Principal Act is further amended— 10

- Further amendment of Act No. 31, 1908. (a) by inserting in paragraph (a) of section thirty- sec. 38 (a). eight after the word "Act" the words "or upon (Obstrucdemand by an officer or authorised person to tion to officers.) state his name and place of abode refuses so to do or states a false name or place of abode";
- (b) by inserting next after section thirty-nine the New sec. following new section:-

39A. (1) Where any person engaged in the Power to sale of any food, drug or article has been con-ing on of business by victed of an offence against this Act the court persons may, on such conviction or at any time thereafter, upon application made as in this section Act. provided, by order, prohibit such person from engaging in the sale of any food, drug or article for such period as the court may determine.

(2) An application for an order under this section shall be made by an officer specifically authorised in that behalf by the Minister.

An authority to make such application, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

(3) Any person who engages in the sale of any food, drug or article in contravention of an order made under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

(4) Any person dissatisfied with an order made under subsection one of this section may

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5	may appeal from the same under and in accord- ance with Part V of the Justices Act, 1902, as amended by subsequent Acts, and the provisions of that Part shall, mutatis mutandis, apply to and in respect of such appeal as if the same were an appeal from a determination or order of a justice or justices.	
	(c) by inserting in section forty-four after the word "analysis" the words "or examination";	Sec. 44. (Evidence.)
10	(d) by omitting from subsection three of section fifty-one the words "ten pounds" and by insert- ing in lieu thereof the words "twenty pounds";	(Refusing
15	(e) by inserting in section fifty-two after the word "food" wherever occurring the words "or drug";	Sec. 52. (Suggestive names.)
20	 (f) (i) by omitting from subsection one of section fifty-four the words "articles of food, or to packages containing such articles," and by inserting in lieu thereof the words "any food or drug, or to packages containing any food or drug"; 	Sec. 54. (Regula- tions.)
25	 (ii) by inserting in the same subsection after the words "payment of analysts" the following new paragraph:— prohibiting the publication, use or exhibition in any manner whatsoever, of any printed or pictorial matter with respect to any food or drug which is false or misleading or likely to mislead; 	
30	 (iii) by inserting at the end of the same subsection the following new paragraphs:— prescribing requirements to be observed 	
35	as to the situation and construction of premises used for the manufacture, preparation, storage or packing of any food, drug or article, and secur- ing the sanitation of such premisës, and the provision of satisfactory facilities	0,
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facilities for protecting such food or drug from contamination;

prohibiting the placing in food for sale or in packages of such food, of any toy, coin or other thing, which, if swallowed or taken into the mouth, might be harmful or injurious to the consumer.

6. (1) The Principal Act is further amended-

Further amendment of Act No. 81, 1908.

(a) by omitting section forty-seven and by inserting subst. sec. 47. in lieu thereof the following section:-

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47. (1) Where any person is prosecuted Guarantee, under this Act for the sale of any food, or drug, defence. or article which is adulterated or falsely described, or is mixed, coloured, composed, or constituted in contravention of any provision of this Act, he shall be entitled to be discharged from such prosecution upon proving-

- (a) that he has received from the person from whom he purchased such food, or drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (b) that he had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (c) that he sold it in the same state as when he purchased it,

subject, however, to the following conditions :---

(i) The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.

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	Act No. , 1944.	1
	Pure Food (Amendment).	
	 (ii) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades. (iii) A guarantee may be general or specific. 	
5	 (iii) A guarantee may be general or specific. (iv) A general guarantee shall apply to the sale of the description of goods or classes of goods named therein. 	ĉ
	(v) A specific guarantee shall apply to the sale of specific goods and shall refer to a sale note, bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same.	6. ()
į	(vi) A guarantee, general or specific, shall not be available as a defence unless the defendant has, within seven days after service of the summons, sent to the in- formant a copy of such guarantee with	ē I
20	a written notice stating that he intends to rely on the same as a defence, and specifying the name and place of busi- ness of the person giving the guarantee, and the name under which he trades,	00
25	and has also sent a like notice of his intention to the person giving the guarantee. The person by whom any guarantee is alleged	64
30	to have been given under this section shall be entitled to offer evidence at the hearing, and the court may, if it thinks fit, adjourn the hear- ing to enable him to do so.	08
	The form of any guarantee under this section may be prescribed. (2) Any person who gives any such	Penalty on
35	penalty for the sale of any food, or drug, or article in contravention of this Act, be guilty of an offence against this Act, unless he proves	guarantor.
40	that when he gave the guarantee he had reason- able grounds for believing and did in fact believe that	10

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that 146
that the statements or descriptions contained therein were true.

A prosecution of any person for an offence against this Act by reason of giving a false guarantee may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by this or any other Act for instituting prosecutions.

(3) Proceedings under subsection two Proceedings of this section against the person who has given for such penalty. the guarantee may be taken before a court having jurisdiction in the place where the food, or drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

(4) No person shall, after a date to be Existing appointed by the Governor and notified by guarantees. proclamation published in the Gazette, place on any package of goods sold by him any serial number allotted to a guarantee in pursuance of paragraph (d) of subsection one of the section which this section replaces, or the words "Guaranteed under the Pure Food Act, 1908", or words of similar import, or any words or expression signifying, suggesting, or implying that the contents of any such package are guaranteed under the provisions of this Act or the regulations, or any other law.

(b) by inserting in section fifty after the words sec. 50. "falsely described" where secondly occurring the (Prosecution of words "or was mixed, coloured, composed or selling adulterated constituted in contravention of any provision of article.) this Act".

(2) Subsection one of this section shall commence 35 upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection two of section one of this Act.

Sydney: Alfred Henry Pettifer, Acting Government Printer-1944. [10d.]

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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

> W. R. McCOURT, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 7 March, 1944.

New South Wales.



ANNO OCTAVO

GEORGII VI REGIS.

Act No. , 1944.

An Act to amend the Pure Food Act, 1908, and certain other Acts, in certain respects; and for purposes connected therewith.

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :----

1. (1) This Act may be cited as the "Pure Food short title, (Amendment) Act, 1944."

commencement, and

(2) This Act (other than section six) shall com- citation. mence upon a day to be appointed by the Governor and 10 notified by proclamation published in the Gazette.

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Pure Food (As	nendment).
(3) The Pure Food Act, quent Acts, is in this Act refer	1908, as amended by subse- red to as the Principal Act.
(4) The Principal Act, a be cited as the Pure Food Ac	s amended by this Act, may t, 1908-1944.
5 2. The Principal Act is ame	ended— Amendment of Act No.
of "Appliance"	section four the definition Sec. 4. and by inserting in lieu (Interpreta- ving definition:—
10 part of instrume used or the make	' includes the whole or any any utensil, machinery, ent, apparatus or article intended for use in or for ing, manufacturing, keep- serving, preparing, hand-
15 ling, ser food or of of such with any also inc	ving, or supplying of any lrug, or which in the course use may come into contact y food or drug; the term ludes any instrument or
any per use for relieving	nce which is held out to son or to the public as of curative purposes, or in y human suffering, or in ing or alleviating any defect.
(ii) by inserting in the of the definition of any substance or use by man white	ne same section at the end of "Drug" the words "and article for consumption or ch the Governor may by ublished in the Gazette
of the definitionfood'' the word 35article used for c	ne same section at the end of "Food," or "article of s "and any substance or consumption by man which
the Governor m	ay by proclamation pub- tette declare to be food or ";
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	Pure Food (Amendment).	
ł	 (iv) (a) by inserting in the same section in the definition of "To sell" after the words "deliver for sale" the words "or supply as part of a meal where consideration is to be received by the supplier for such supply either specifically or as part of a service contracted for"; 	r T
10	 (b) by inserting at the end of the same definition the words "or for purposes of analysis or other examination in pursuance of this Act"; 	
18	 (b) (i) by omitting from paragraph (f) of section five the words "or stained" and by inserting in lieu thereof the words "stained, prepared, or treated"; 	(Adultera
20	 (ii) by omitting from paragraph (m) of the same section the words "attached thereto" and by inserting in lieu thereof the words "or written matter attached thereto or enclosed therewith"; 	
	 (iii) by inserting in the same paragraph after the words "contained therein" the words "or its physiological, curative, or thera- peutic effect." 	
2.	5 3. The Principal Act is further amended—	Further amendment of Act No.
	(a) by inserting next after section ten the following new section:—	31, 1908.
30	which is adulterated or falsely described, or which is packed or enclosed for sale or labelled, branded or marked in any manner contrary to	despatch of food, etc., adul- terated or falsely described cf. 5 Geo.
3	or not in compliance with any provision of this Act, whether the actual sale shall be effected or is to become effective in New South Wales or elsewhere:	VI, No. (Q'ld), s.

Provided

8.3.

Provided that if the actual sale was effective or is to be effective elsewhere than in New South Wales it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective.

(b) by omitting from subsection three of section Sec. 12. twelve the word "defective" wherever occurring (Selling goods not of nature and by inserting in lieu thereof the word demanded defence.)

"different";

- (c) (i) by inserting in subsection one of section Sec. 13. thirteen after the words "sound condition" (Sale of maxture.) the words "and shall comply with the prescribed standards";
 - (ii) by inserting at the end of the same section the following new subsection :---

(3) No person shall sell any food or drug which is a mixture in respect of which a standard has been prescribed under this Act unless the mixture is in accordance with such standard.

- (d) (i) by inserting in the short heading to section sec. 14. fourteen after the word "food" the words (Packages to be "or drug";
 - (ii) by inserting in subsection one of the same section after the word "food" where firstly and secondly occurring the words "or drug'';
 - (iii) by inserting at the end of the same subsection the following words:-

No person shall, after the expiration of six months from the commencement of the Pure Food (Amendment) Act, 1944, sell in a package any drug unless such a statement or label is written on or attached to such package as required by this section.

Nothing in this subsection shall apply to any package of drug where such drug is supplied by prescription or order signed by

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a legally qualified medical practitioner for any person then under his care and treatment.

- (iv) by inserting in subsection three of the same section after the word "food" the words "or drugs";
- (e) (i) by omitting from subsection one of section Sec. 17. seventeen the words "which by reason of (Prohibition of its inactivity or inefficiency"; sale of

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- (ii) by omitting from the same subsection the injurious drugs, etc.) words "of cure";
- (f) by inserting next after section nineteen the fol- New sec. 19A. lowing new section :---

19A. (1) The board may by notification in the Packing Gazette prohibit the packing for sale of any dis- fectant or infectant or poisonous substance in any con-poisonous tainer which bears upon it any brand, mark or statement which may be capable of misleading a purchaser into the belief that the contents of such container are for the purpose of human consumption.

(2) No person shall sell or pack for sale any disinfectant or poisonous substance in respect of which a notification under subsection one of this section is in force in any container bearing any such brand, mark or statement.

(g) by inserting in section twenty after the words Sec. 20. "in private" the words and figures "Division 7 (Appeal.) of Part III of the District Courts Act, 1912-1936, shall apply, mutatis mutandis, to any such appeal.

The judge may make such order for the payment of the costs and charges of and incidental to the appeal as to him seems just.

Such costs and charges shall be taxed by such officer as the judge directs and may be recovered in like manner as any debt adjudged by the judge of a district court to be paid can be recovered."

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	Pure Food (Amendment).	
(h) (i)	twenty-one the words "the milk of" and by	(Milk of
(ii)	by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof";	
(iii)	by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from";	
(iv)	by inserting after the same subsection the following new subsection:—	
	(2A) A person who sells milk or any pro- duct thereof shall not knowingly allow any diseased cattle to be in his milking herd or on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts.	
4. The P:	rincipal Act is further amended—	Further amendment
(a) (i)	by inserting at the end of subsection six of section twenty-two the words "and why he should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";	of Act No. 31, 1908. Sec. 22. (Entry and inspection.
(ii)	section after the words "shall be destroyed" the words "The said magistrate or justices may further order that such owner or person shall pay the reasonable expenses incurred by the officer in the examination,	
(iii)	by inserting in subsection nine of the same section after the words "licensed house"	
	(ii) (iii) (iv) 4. The P: (a) (i) (ii)	 (h) (i) by omitting from subsection one of section twenty-one the words "the milk of" and by inserting in lieu thereof the words "milk or any product thereof from"; (ii) by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof"; (iii) by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from"; (iii) by onitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from"; (iv) by inserting after the same subsection the following new subsection:— (2A) A person who sells milk or any product thereof shall not knowingly allow any diseased cattle to be in his milking herd or on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts. 4. The Principal Act is further amended— (a) (i) by inserting at the end of subsection six of section twenty-two the words "and why he should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel"; (ii) by inserting in subsection seven of the same section after the words "shall be destroyed" the words "the words "the said magistrate or justices may further order that such owner or përson shall pay the reasonable expenses incurred by the officer in the examination, seizure, and destruction of the article, package, or vessel";

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Act No. , 1944.

Pure Food (Amendment).

(b) by omitting from subsection two of section Sec. 24 (2). twenty-four the words "and shall retain one of (Samples.) the said parts for future comparison, and submit the third part to an analyst," and by inserting in lieu thereof the words "and submit one of the 5 said parts to an analyst, and shall retain the third part for future comparison and for such examination or analysis as a magistrate may direct." Further amendment 10 5. The Principal Act is further amended of Act No. 31, 1908. (a) by inserting in paragraph (a) of section thirty- sec. 38 (a). eight after the word "Act" the words "or upon (Obstrucdemand by an officer or authorised person to tion to officers.) state his name and place of abode refuses so to do or states a false name or place of abode"; (b) by inserting next after section thirty-nine the New sec. 39A. following new section :--39A. (1) Where any person engaged in the Power to prohibit carrysale of any food, drug or article has been con- ing on of business by victed of an offence against this Act the court persons convicted of may, on such conviction or at any time thereafter, upon application made as in this section provided, by order, prohibit such person from engaging in the sale of any food, drug or article for such period as the court may determine. (2) An application for an order under this section shall be made by an officer authorised in that behalf by the Minister. An authority to make such application, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature. (3) Any person who engages in the sale of any food, drug or article in contravention of an order made under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds. (4) Any person dissatisfied with an order made under subsection one of this section may

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may appeal from the same under and in accordance with Part V of the Justices Act. 1902, as amended by subsequent Acts, and the provisions of that Part shall, mutatis mutandis, apply to and in respect of such appeal as if the same were an appeal from a determination or order of a justice or justices.

- (c) by inserting in section forty-four after the word sec. 44. "analysis" the words "or examination"; (Evidence.)
- (d) by omitting from subsection three of section sec. 51 (3). fifty-one the words "ten pounds" and by insert- (Refusing informaing in lieu thereof the words "twenty pounds"; tion.)
 - (e) by inserting in section fifty-two after the word sec. 52. "food" wherever occurring the words "or (Suggestive names.) drug";
 - (f) (i) by omitting from subsection one of section Sec. 54. fifty-four the words "articles of food, or (Regulato packages containing such articles," and by inserting in lieu thereof the words "any food or drug, or to packages containing any food or drug";
 - (ii) by inserting in the same subsection after the words "payment of analysts" the following new paragraph:
 - prohibiting the publication, use or exhibition in any manner whatsoever, of any printed or pictorial matter with respect to any food or drug which is false or misleading or likely to mislead;
 - (iii) by inserting at the end of the same subsection the following new paragraphs:-

prescribing requirements to be observed as to the situation and construction of premises used for the manufacture. preparation, storage or packing of any food, drug or article, and securing the sanitation of such premises, and the provision of satisfactory facilities

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facilities for protecting such food or drug from contamination;

prohibiting the placing in food for sale or in packages of such food, of any toy, coin or other thing, which, if swallowed or taken into the mouth, might be harmful or injurious to the consumer.

6. (1) The Principal Act is further amended—

in lieu thereof the following section:-

from such prosecution upon proving-

he purchased it,

or article which is adulterated or falsely described, or is mixed, coloured, composed, or

constituted in contravention of any provision of this Act, he shall be entitled to be discharged

> (a) that he has received from the person from whom he purchased such food, or

or constituted as aforesaid; and

(b) that he had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed,

drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed,

Further amendment of Act No. 81, 1908. (a) by omitting section forty-seven and by inserting subst.

sec. 47.

47. (1) Where any person is prosecuted Guarantee, when a under this Act for the sale of any food, or drug, defence.

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subject, however, to the following conditions:-

or constituted as aforesaid; and (c) that he sold it in the same state as when

- (i) The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.
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(ii)

Act No. , 1944.

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	Pure Food (Amendment).	
	(ii) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades.	
	(iii) A guarantee may be general or specific.	
5	(iv) A general guarantee shall apply to the sale of the description of goods or classes of goods named therein.	
	(v) A specific guarantee shall apply to the	
	sale of specific goods and shall refer to	
(a sale note, bill of sale, invoice, bill of	
	lading, or other document describing	
	the goods and the weight, measure, and number of the same.	
	(vi) A guarantee, general or specific, shall	
1	not be available as a defence unless the	
	defendant has, within seven days after	ē
	service of the summons, sent to the in-	
	formant a copy of such guarantee with	
20	a written notice stating that he intends to rely on the same as a defence, and	
	specifying the name and place of busi-	
	ness of the person giving the guarantee,	
	and the name under which he trades,	
25	and has also sent a like notice of his	
20	intention to the person giving the	
	guarantee.	
	The person by whom any guarantee is alleged to have been given under this section shall be	
	entitled to offer evidence at the hearing, and	
30	the court may, if it thinks fit, adjourn the hear-	
	ing to enable him to do so.	
	The form of any guarantee under this section	
	may be prescribed.	
35	(2) Any person who gives any such guarantee which is false shall, in addition to any	Penalty on guarantor.
	penalty for the sale of any food, or drug, or	č
	article in contravention of this Act, be guilty of	3.5
	an offence against this Act, unless he proves	
	that when he gave the guarantee he had reason-	
40	able grounds for believing and did in fact believe that	
	that	-b8

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that the statements or descriptions contained therein were true.

A prosecution of any person for an offence against this Act by reason of giving a false guarantee may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by this or any other Act for instituting prosecutions.

(3) Proceedings under subsection two Proceedings of this section against the person who has given for such the guarantee may be taken before a court having jurisdiction in the place where the food. or drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

(4) No person shall, after a date to be Existing appointed by the Governor and notified by guarantees. proclamation published in the Gazette, place on any package of goods sold by him any serial number allotted to a guarantee in pursuance of paragraph (d) of subsection one of the section which this section replaces, or the words "Guaranteed under the Pure Food Act, 1908", or words of similar import, or any words or expression signifying, suggesting, or implying that the contents of any such package are guaranteed under the provisions of this Act or the regulations, or any other law.

(b) by inserting in section fifty after the words sec. 50. "falsely described" where secondly occurring the (Prosecution of employee for words "or was mixed, coloured, composed or selling adulterated constituted in contravention of any provision of article.) this Act".

penalty.

(2) Subsection one of this section shall commence 35 upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection two of section one of this Act.

Sydrey: Alfred Henry Pettifer, Acting Government Printer-1944. [10d.]

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AND THE PERSON AND ADDRESS OF A DESCRIPTION

No. , 1943.

A BILL

To amend the Pure Food Act, 1908, and certain other Acts, in certain respects; and for purposes connected therewith.

[Mr. Kelly;-25 November, 1943.]

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :--

1. (1) This Act may be cited as the "Pure Food Short title, (Amendment) Act, 1943."

commencement, and citation.

(2) This Act (other than section six) shall commence upon a day to be appointed by the Governor and 10 notified by proclamation published in the Gazette.

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(3)-----

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	Pure Food (Amendment).	
	(3) The Pure Food Act, 1908, as amended by subse- quent Acts, is in this Act referred to as the Principal Act.	
	(4) The Principal Act, as amended by this Act, may be cited as the Pure Food Act, 1908-1943.	
5	${f 2.}$ The Principal Act is amended—	Amendment of Act No. 31, 1908.
	 (a) (i) by omitting from section four the definition of "Appliance" and by inserting in lieu thereof the following definition:— 	Sec. 4.
10	"Appliance" includes the whole or any part of any utensil, machinery, instrument, apparatus or article used or intended for use in or for the making, manufacturing, keep- ing, preserving, preparing, hand-	
15	ling, preserving, preparing, nand- ling, serving, or supplying of any food or drug, or which in the course of such use may come into contact with any food or drug; the term also includes any instrument or	
20 25	contrivance which is held out to any person or to the public as of use for curative purposes, or in relieving human suffering, or in overcoming or alleviating any	
20	(ii) by inserting in the same section at the end	
30	of the definition of "Drug" the words "and any substance or article for consumption or use by man which the Governor may by	
	(iii) by inserting in the same section at the end	

of the definition of "Food," or "article of food" the words "and any substance or article used for consumption by man which the Governor may by proclamation published in the Gazette declare to be food or an article of food";

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(iv)

(iv) (a) by inserting in the same section in the definition of "To sell" after the words "deliver for sale" the words "or supply as part of a meal where consideration is to be received by the supplier for such supply either specifically or as part of a service contracted for";

- (b) by inserting at the end of the same definition the words "or for purposes of analysis or other examination in pursuance of this Act":
- (b) (i) by omitting from paragraph (f) of section Sec. 5. five the words "or stained" and by inserting (Adulterain lieu thereof the words "stained, pre- false pared, or treated":
 - (ii) by omitting from paragraph (m) of the same section the words "attached thereto" and by inserting in lieu thereof the words "or written matter attached thereto or enclosed therewith":
 - (iii) by inserting in the same paragraph after the words "contained therein" the words "or its physiological, curative, or therapeutic effect."

3. The Principal Act is further amended— 25

(a) by inserting next after section ten the following New sec. 10A. new section :-

10A. No person shall in or from New South Tender or Wales tender or despatch or offer to tender or despatch of food. despatch for or on sale any food, drug, or article etc., adulwhich is adulterated or falsely described, or terated or falsely which is packed or enclosed for sale or labelled, described. branded or marked in any manner contrary to cf. 5 Geo. or not in compliance with any provision of this (Q'ld), s. 3. Act, whether the actual sale shall be effected or is to become effective in New South Wales or elsewhere:

Provided

tion or description.)

Further amendment of Act No. 31, 1908.

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Provided that if the actual sale was effective or is to be effective elsewhere than in New South Wales it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective. (b) by omitting from subsection three of section Sec. 12. twelve the word "defective" wherever occurring not of nature and by inserting in lieu thereof the word defence.)

- "different":
- (c) (i) by inserting in subsection one of section Sec. 13. thirteen after the words "sound condition" (Sale of mixture.) the words "and shall comply with the prescribed standards";
 - (ii) by inserting at the end of the same section the following new subsection :---

(3) No person shall sell any food or drug which is a mixture in respect of which a standard has been prescribed under this Act unless the mixture is in accordance with such standard.

- (d) (i) by inserting in subsection one of section Sec. 14. fourteen and in the short heading to that (Packages to be section after the word "food" wherever labelled.) occurring the words "or drug";
 - (ii) by inserting in subsection three of the same section after the word "food" the words "or drugs":
- (e) (i) by omitting from subsection one of section Sec. 17. seventeen the words "which by reason of (Prohibiits inactivity or inefficiency";

tion of sale of

- (ii) by omitting from the same subsection the injurious drugs, etc.) words "of cure";
- (f) by inserting next after section nineteen the fol- New sec. lowing new section :--19A.

19A. (1) The board may by notification in the Packing Gazette prohibit the packing for sale of any disinfectant or poisonous substance in any con- poisonous tainer which bears upon it any brand, mark or statement which may be capable of misleading

fectant or substance.

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a purchaser into the belief that the contents of such container are for the purpose of human consumption.

(2) No person shall sell or pack for sale any disinfectant or poisonous substance in respect of which a notification under subsection one of this section is in force in any container bearing any such brand, mark or statement.

(g) by inserting in section twenty after the words Sec. 20. "in private" the words and figures "Division 7 (Appeal.) of Part III of the District Courts Act, 1912-1936, shall apply, mutatis mutandis, to any such appeal.

The judge may make such order for the payment of the costs and charges of and incidental to the appeal as to him seems just.

Such costs and charges shall be taxed by such officer as the judge directs and may be recovered in like manner as any debt adjudged by the judge of a district court to be paid can be recovered."

- (h) (i) by omitting from subsection one of section Sec. 21. twenty-one the words "the milk of" and by (Milk of inserting in lieu thereof the words "milk or cow.) any product thereof from";
 - (ii) by inserting in subsection two of the same section after the words "sells milk" the words "or any product thereof";
 - (iii) by omitting from the same subsection the words "the milk of" and by inserting in lieu thereof the words "the milk or any product thereof from";
 - (iv) by inserting after the same subsection the following new subsection:-

(2A) A person who sells milk shall not knowingly allow any diseased cattle to be in his milking herd or on his dairy premises as defined in the Dairies Supervision Act, 1901, as amended by subsequent Acts.

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4. The Principal Act is further amended—

Further amendment of Act No. 31, 1908.

- (a) (i) by inserting at the end of subsection six of sec. 22. section twenty-two the words "and why he (Entry and inspection.) should not be ordered to pay the expenses incurred by the officer in the examination, seizure, and destruction of the article. package, or vessel";
 - (ii) by inserting in subsection seven of the same section after the words "shall be destroyed" the words "The said magistrate or justices may further order that such owner or person shall pay the reasonable expenses incurred by the officer in the examination. seizure, and destruction of the article, package, or vessel":
 - (iii) by inserting in subsection nine of the same section after the words "licensed house" the word "boarding-house";
- (b) by omitting from subsection two of section Sec. 24 (2). twenty-four the words "and shall retain one of (Samples.) the said parts for future comparison, and submit the third part to an analyst," and by inserting in lieu thereof the words "and submit one of the said parts to an analyst, and shall retain the third part for future comparison and for such examination or analysis as a magistrate may direct."

5. The Principal Act is further amended—

Further amendment of Act.

No. 31, 1908.

- (a) by inserting in paragraph (a) of section thirty- sec. 38 (a). eight after the word "Act" the words "or upon (Obstruedemand by an officer or authorised person to officers.) state his name and place of abode refuses so to do or states a false name or place of abode":
- (b) by inserting next after section thirty-nine the New sec. following new section :---

39A. (1) Where any person engaged in the Power to sale of any food, drug or article has been con- ing on of victed of an offence against this Act the court persons

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39A.

convicted of offence against Act.

may,

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may, on such conviction or at any time thereafter, upon application made as in this section provided, by order, prohibit such person from engaging in the sale of any food, drug or article for such period as the court may determine.

(2) An application for an order under this section shall be made by an officer authorised in that behalf by the Minister.

An authority to make such application, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

(3) Any person who engages in the sale of any food, drug or article in contravention of an order made under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

(c) by inserting in section forty-four after the word sec. 44. "analysis" the words "or examination";

(Evidence.)

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(d) by omitting from subsection three of section Sec. 51 (3). fifty-one the words "ten pounds" and by insert- (Refusing ing in lieu thereof the words "twenty pounds"; tion.)

- (e) by inserting in section fifty-two after the word Sec. 52. "food" wherever occurring the words "or (Suggestive drug";
- (f) (i) by omitting from subsection one of section sec. 54. fifty-four the words "articles of food, or (Regulato packages containing such articles," and by inserting in lieu thereof the words "any food or drug, or to packages containing any food or drug";
 - (ii) by inserting in the same subsection after the words "payment of analysts" the following new paragraph:
 - prohibiting the publication, use or exhibition in any manner whatsoever, of any printed or pictorial matter with respect to any food or drug which is false or misleading or likely to mislead;

(iii)

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Pure Food (Amendment). (iii) by inserting at the end of the same subsection the following new paragraphs:prescribing requirements to be observed as to the situation and construction of 5 premises used for the manufacture, preparation, storage or packing of any food, drug or article, and securing the sanitation of such premises, and the provision of satisfactory 10 facilities for protecting such food or drug from contamination; prohibiting the placing in food for sale or in packages of such food, of any toy, coin or other thing, which, if 15 swallowed or taken into the mouth, might be harmful or injurious to the consumer. 6. (1) The Principal Act is further amended-Further amendment of Act No. 31, 1908. (a) by omitting section forty-seven and by inserting subst. 20 in lieu thereof the following section :-sec. 47. 47. (1) Where any person is prosecuted Guarantee, when a 5 under this Act for the sale of any food, or drug, defence. --or article which is adulterated or falsely described, or is mixed, coloured, composed, or 25 constituted in contravention of any provision of this Act, he shall be entitled to be discharged from such prosecution upon proving-(a) that he has received from the person from whom he purchased such food, or 30 drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed. or constituted as aforesaid; and 35 (b) that he had no reason to believe that the same was adulterated or falsely

or constituted as aforesaid; and

described, or mixed, coloured, composed,

(c)

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= (iii)

F	ure Food (Amendment).
(c)	that he sold it in the same state as when he purchased it,
	however, to the following conditions:- The person giving the guarantee must be resident in New South Wales, or, if a company, must have a registered office in New South Wales, or, if a firm, must have a place of business in New South Wales.
(ii)	
(iii)	A guarantee may be general or specific.
(iv)	A general guarantee shall apply to the sale of the description of goods or classes of goods named therein.
(v)	A specific guarantee shall apply to the sale of specific goods and shall refer to a sale note, bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same.
(vi)	A guarantee, general or specific, shall not be available as a defence unless the defendant has, within seven days after service of the summons, sent to the in- formant a copy of such guarantee with a written notice stating that he intends to rely on the same as a defence, and specifying the name and place of busi- ness of the person giving the guarantee,
	and the name under which he trades, and has also sent a like notice of his intention to the person giving the guarantee

The person by whom any guarantee is alleged to have been given under this section shall be entitled to offer evidence at the hearing, and the

guarantee.

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the court may, if it thinks fit, adjourn the hearing to enable him to do so.

The form of any guarantee under this section may be prescribed.

(2) Any person who gives any such Penalty on guarantee which is false shall, in addition to any guarantor. penalty for the sale of any food, or drug, or article in contravention of this Act, be guilty of an offence against this Act, unless he proves that when he gave the guarantee he had reasonable grounds for believing and did in fact believe that the statements or descriptions contained therein were true.

A prosecution of any person for an offence against this Act by reason of giving a false guarantee may be commenced at any time after the giving of such guarantee notwithstanding any limit of time prescribed by this or any other Act for instituting prosecutions.

(3) Proceedings under subsection two Proceedings of this section against the person who has given for such penalty. the guarantee may be taken before a court having jurisdiction in the place where the food, or drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

(4) No person shall, after a date to be Existing appointed by the Governor and notified by guarantees. proclamation published in the Gazette, place on any package of goods sold by him any serial number allotted to a guarantee in pursuance of paragraph (d) of subsection one of the section which this section replaces, or the words "Guaranteed under the Pure Food Act, 1908", or words of similar import, or any words or expression signifying, suggesting, or implying that the contents of any such package are guaranteed under the provisions of this Act or the regulations, or any other law.

(b)

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(b) by inserting in section fifty after the words Sec. 50. "falsely described" where secondly occurring the employee for words "or was mixed, coloured, composed or selling adulterated constituted in contravention of any provision of this Act".

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed 10 pursuant to subsection two of section one of this Act.

Sydney: Alfred Henry Pettifer, Acting Government Printer- 1943.

[10d.]

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