

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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 1 December, 1959.*

New South Wales



ANNO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. , 1959.

An Act to prohibit the manufacture, packing and sale of filled milk; and for purposes connected therewith.

BE it enacted by the Queen'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 the same, as follows:—

1. (1) This Act may be cited as the "Filled Milk Act, 1959".

Short title
and com-
mencement.

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

Filled Milk.

2. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Construction of Act.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

Interpretation.

10 "Analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts.

15 "Butter fat" means the fat of cow's milk.

"Cocoa butter" means the solid fat expressed from the roasted seeds of theobroma cacao.

20 "Filled milk" means any liquid or powder containing the non-fat solids of cow's milk with which has been incorporated or to which has been added any fat other than butter fat or cocoa butter, whether described as filled milk or by any other name and whether or not intended as a substitute for milk or for whole milk powder, but does not include any product for the time being exempted from the provisions of this Act under section four of this Act or any product—

- (a) manufactured in any hospital for consumption by any patient therein;
- 30 (b) extemporaneously manufactured for a particular person for whom the product has been prescribed by a medical practitioner.

"Inspector" means inspector under this Act.

"Manufacture" includes prepare and process.

35 "Package" includes every container or receptacle in which goods may be cased, covered, contained or packed; and "to pack" and its derivatives have corresponding interpretations.

"Place"

Filled Milk.

“Place” includes any building, premises, land, vehicle, aeroplane or boat.

5 “Sale” includes barter, exchange, deal in, agree to sell, offer or expose for sale, have in possession for sale, send, forward or deliver for or on sale, or authorise, direct, cause, suffer, permit or attempt any of the foregoing; and derivatives of the expression “to sell” have corresponding interpretations.

10 4. The Minister may, by notice published in the Gazette, Exemption. exempt from the provisions of this Act any product specified in the notice and may in like manner revoke or vary any such exemption.

15 5. (1) As on and from the expiration of three months after the commencement of this Act, no person shall manufacture, pack or sell filled milk. Prohibition on manufacture, packing and sale of filled milk.

(2) Any person guilty of an offence against subsection one of this section shall be liable for a first offence to a penalty not exceeding two hundred pounds and for a second or subsequent offence to a penalty not exceeding three hundred 20 pounds.

6. Any person appointed in writing by the Minister to be an inspector under this Act, and any inspector appointed under the Dairy Industry Act, 1915, as amended by subsequent Acts, shall be an inspector under this Act. Inspectors.

25 7. An inspector may at any reasonable time— Powers of inspectors.

(a) enter and search any place where filled milk is manufactured, stored, packed or sold or is suspected by him to be manufactured, stored, packed or sold;

30 (b) inspect any filled milk or other substance suspected by him to be filled milk;

(c) without payment take samples of filled milk or of any such other substance and for that purpose open or cause to be opened any package which contains or which he suspects to contain filled milk;

(d)

Filled Milk.

5 (d) enter any place where he suspects that any accounts, books or documents relating to filled milk or to any fat, oil, powder or other substance of any kind that may be used in the manufacture of filled milk are kept, and inspect, make copies of and take extracts from any such accounts, books or documents.

8. (1) An inspector may at any time require the purchaser of any filled milk to state the name and address of the vendor from whom he purchased the filled milk.

Purchaser of filled milk to state name and address of vendor.

10 (2) Any person who when so required—

- (a) does not state the name and address of the vendor ; or
- (b) states a name or address, which is false or misleading,

15 shall be guilty of an offence against this Act.

9. Any person who—

Obstructing inspector.

- (a) prevents or attempts to prevent any inspector from exercising any power conferred on him by or under this Act; or
- 20 (b) hinders or obstructs any inspector in the exercise of any such power,

shall be guilty of an offence against this Act.

25 **10.** (1) An inspector may seize any filled milk in respect of which he has reason to believe an offence against this Act has been committed.

Power of inspector to seize filled milk in certain cases.

30 (2) Where any filled milk is seized by an inspector he shall forthwith give notice of the seizure to any person apparently in charge thereof or if there is no person apparently in charge thereof, to the owner thereof, if the name and address of the owner is known to the inspector.

(3) (a) Any person claiming any filled milk so seized may appeal in the prescribed manner to a court of petty sessions which may either confirm wholly or in part or disallow the seizure and make an order accordingly.

(b)

Filled Milk.

(b) Notice of any such appeal shall be lodged within forty-eight hours after such seizure with the clerk of the court of petty sessions to which the appeal is being made and with either the inspector who seized the filled milk or
5 the person for the time being holding office as the Chief of the Division of Dairying, Department of Agriculture.

(c) Every appeal under this subsection shall be heard before a court of petty sessions holden before a stipendiary magistrate.

10 (4) The onus of proof that any filled milk so seized was not filled milk in respect of which an offence against this Act had been committed shall be upon the appellant.

(5) If no such appeal is made or if the seizure is confirmed then to the extent of such confirmation, the filled milk
15 so seized shall become the property of the Crown and shall be destroyed or otherwise disposed of.

(6) No inspector who has seized any filled milk shall be liable for any costs, expenses or damages on account of such seizure if he acted under a reasonable belief that an
20 offence against this Act had been committed in respect of such filled milk.

11. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided be liable to a penalty not exceeding one hundred
25 pounds.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or two justices in petty sessions.

12. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—
30 Regulations.

(a) prescribing methods of analysis of any filled milk for the purposes of this Act, and providing that in any legal proceedings under this Act the production of a certificate of the result of the analysis of any
35 substance, purporting to be signed by an analyst and stating that the analysis was carried out in accordance with
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Filled Milk.

- 5 with a prescribed method, shall be prima facie evidence of the identity of the substance analysed or of the constituent parts of the substance analysed, as the case may be, and of the result of such analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate;
- 10 (b) prescribing the chemical and physical criteria for any kind of fat and providing that any substance which possesses the chemical and physical criteria prescribed for any kind of fat shall, in any legal proceedings under this Act, be deemed to be that kind of fat;
- 15 (c) all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

- 20 (3) The regulations shall—
- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations;
- 25 (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days 30 after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

No. , 1959.

A BILL

To prohibit the manufacture, packing and sale of filled milk; and for purposes connected therewith.

[MR. NOTT;—1 *September*, 1959.]

BE it enacted by the Queen'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 the same, as follows :—

1. (1) This Act may be cited as the "Filled Milk Act, 1959".

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

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2. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Construction
of Act.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

Interpre-
tation.

10 “Analyst” means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts.

15 “Butter fat” means the fat of cow’s milk.

“Cocoa butter” means the solid fat expressed from the roasted seeds of theobroma cacao.

20 “Filled milk” means any liquid or powder containing the non-fat solids of cow’s milk with which has been incorporated or to which has been added any fat other than butter fat or cocoa butter, whether described as filled milk or by any other name and whether or not intended as a substitute for milk or for whole milk powder, but does not include any product for the time being exempted from the provisions of this Act under section four of this Act.

25 “Inspector” means inspector under this Act.

“Manufacture” includes prepare and process.

30 “Package” includes every container or receptacle in which goods may be cased, covered, contained or packed; and “to pack” and its derivatives have corresponding interpretations.

“Place”

Filled Milk.

“Place” includes any building, premises, land, vehicle, aeroplane or boat.

5 “Sale” includes barter, exchange, deal in, agree to sell, offer or expose for sale, have in possession for sale, send, forward or deliver for or on sale, or authorise, direct, cause, suffer, permit or attempt any of the foregoing; and derivatives of the expression “to sell” have corresponding interpretations.

4. The Minister may, by notice published in the Gazette, Exemption.
10 exempt from the provisions of this Act any product specified in the notice and may in like manner revoke or vary any such exemption.

5. (1) As on and from the expiration of three months after the commencement of this Act, no person shall manu-
15 facture, pack or sell filled milk. Prohibition on manufacture, packing and sale of filled milk.

(2) Any person guilty of an offence against subsection one of this section shall be liable for a first offence to a penalty not exceeding two hundred pounds and for a second or subsequent offence to a penalty not exceeding three hundred
20 pounds.

6. Any person appointed in writing by the Minister to be
an inspector under this Act, and any inspector appointed under
the Dairy Industry Act, 1915, as amended by subsequent Acts,
shall be an inspector under this Act. Inspectors.

25 7. An inspector may at any reasonable time— Powers of inspectors.

(a) enter and search any place where filled milk is manu-
factured, stored, packed or sold or is suspected by
him to be manufactured, stored, packed or sold;

30 (b) inspect any filled milk or other substance suspected
by him to be filled milk;

(c) without payment take samples of filled milk or of
any such other substance and for that purpose open
or cause to be opened any package which contains
or which he suspects to contain filled milk;

(d)

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5 (d) enter any place where he suspects that any accounts, books or documents relating to filled milk or to any fat, oil, powder or other substance of any kind that may be used in the manufacture of filled milk are kept, and inspect, make copies of and take extracts from any such accounts, books or documents.

8. (1) An inspector may at any time require the purchaser of any filled milk to state the name and address of the vendor from whom he purchased the filled milk.

Purchaser of filled milk to state name and address of vendor.

10 (2) Any person who when so required—

- (a) does not state the name and address of the vendor ; or
- (b) states a name or address, which is false or misleading,

15 shall be guilty of an offence against this Act.

9. Any person who—

Obstructing inspector.

- 20 (a) prevents or attempts to prevent any inspector from exercising any power conferred on him by or under this Act ; or
- (b) hinders or obstructs any inspector in the exercise of any such power,

shall be guilty of an offence against this Act.

25 10. (1) An inspector may seize any filled milk in respect of which he has reason to believe an offence against this Act has been committed.

Power of inspector to seize filled milk in certain cases.

(2) Where any filled milk is seized by an inspector he shall forthwith give notice of the seizure to any person apparently in charge thereof or if there is no person apparently in charge thereof, to the owner thereof, if the name and address of the owner is known to the inspector.

(3) (a) Any person claiming any filled milk so seized may appeal in the prescribed manner to a court of petty sessions which may either confirm wholly or in part or disallow the seizure and make an order accordingly.

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(b) Notice of any such appeal shall be lodged within forty-eight hours after such seizure with the clerk of the court of petty sessions to which the appeal is being made and with either the inspector who seized the filled milk or
5 the person for the time being holding office as the Chief of the Division of Dairying, Department of Agriculture.

(c) Every appeal under this subsection shall be heard before a court of petty sessions holden before a stipendiary magistrate.

10 (4) The onus of proof that any filled milk so seized was not filled milk in respect of which an offence against this Act had been committed shall be upon the appellant.

(5) If no such appeal is made or if the seizure is confirmed then to the extent of such confirmation, the filled milk
15 so seized shall become the property of the Crown and shall be destroyed or otherwise disposed of.

(6) No inspector who has seized any filled milk shall be liable for any costs, expenses or damages on account of such seizure if he acted under a reasonable belief that an
20 offence against this Act had been committed in respect of such filled milk.

11. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided be liable to a penalty not exceeding one hundred
25 pounds. Penalty.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or two justices in petty sessions.

12. (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regulations.
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(a) prescribing methods of analysis of any filled milk for the purposes of this Act, and providing that in any legal proceedings under this Act the production of a certificate of the result of the analysis of any substance, purporting to be signed by an analyst and stating that the analysis was carried out in accordance with
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5 with a prescribed method, shall be prima facie evidence of the identity of the substance analysed or of the constituent parts of the substance analysed, as the case may be, and of the result of such analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate;

10 (b) prescribing the chemical and physical criteria for any kind of fat and providing that any substance which possesses the chemical and physical criteria prescribed for any kind of fat shall, in any legal proceedings under this Act, be deemed to be that kind of fat;

15 (c) all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

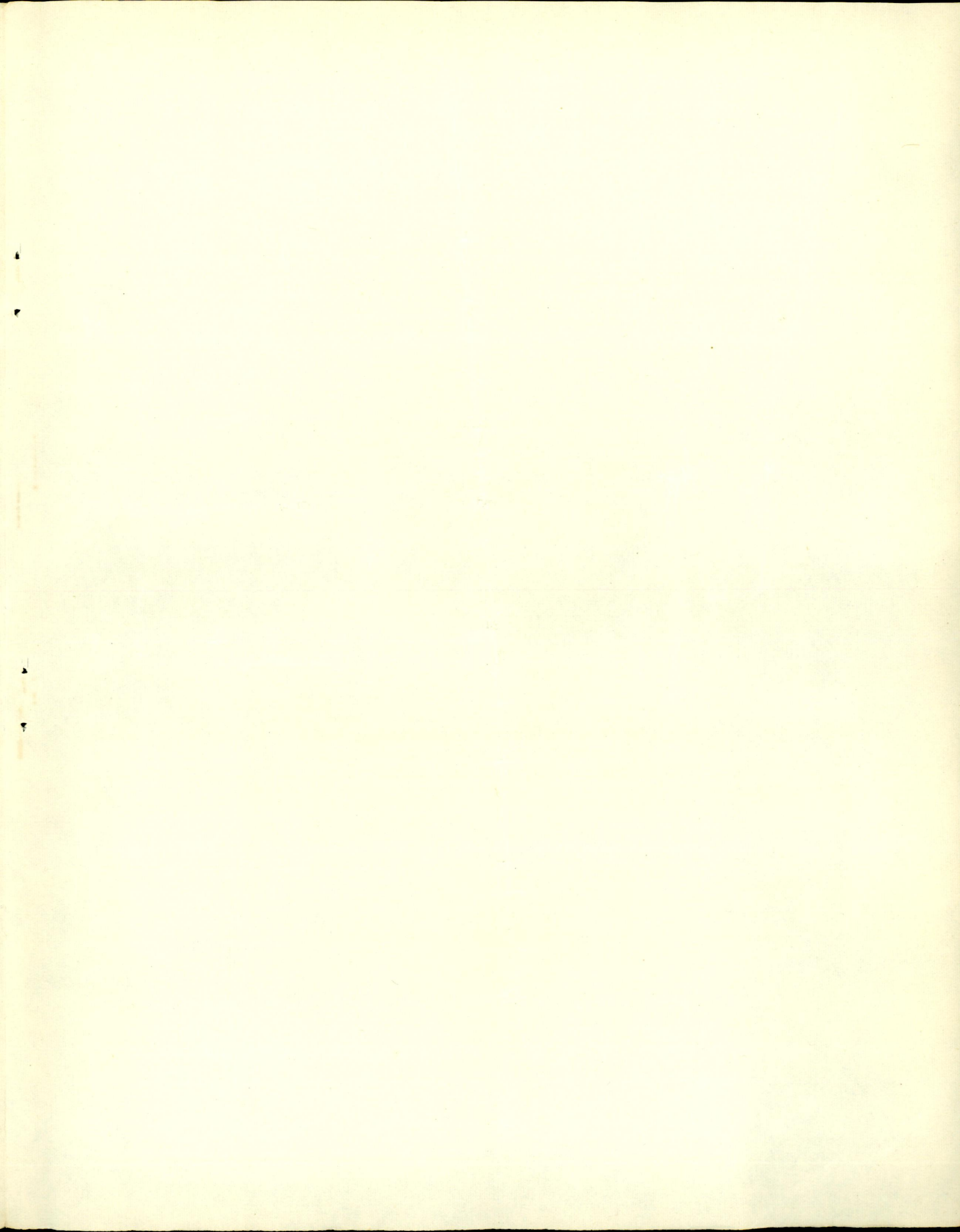
20 (3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of such publication or from a later date to be specified in the regulations;

25 (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days 30 after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.



FILLED MILK BILL, 1959.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to prohibit the manufacture, packing and sale of filled milk, as defined in the Bill ;
- (b) to confer on the Minister power to exempt products from the operation of the provisions referred to in paragraph (a) above, and to revoke or vary any such exemption ;
- (c) to provide for the appointment of inspectors and to confer upon them certain powers for the enforcement of the provisions referred to in paragraph (a) above ;
- (d) to make other provisions of a minor or ancillary character.

PROOF.

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10 4. The Minister may, by notice published in the Gazette, exempt from the provisions of this Act any product specified in the notice and may in like manner revoke or vary any such exemption. Exemption.

15 5. (1) As on and from the expiration of three months after the commencement of this Act, no person shall manufacture, pack or sell filled milk. Prohibition on manufacture, packing and sale of filled milk. *prohibited import.*

(2) Any person guilty of an offence against subsection one of this section shall be liable for a first offence to a penalty not exceeding two hundred pounds and for a second or subsequent offence to a penalty not exceeding three hundred 20 pounds.

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(3) (a) Any person claiming any filled milk so seized may appeal in the prescribed manner to a court of petty sessions which may either confirm wholly or in part or disallow the seizure and make an order accordingly.

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Filled Milk.

(b) Notice of any such appeal shall be lodged within forty-eight hours after such seizure with the clerk of the court of petty sessions to which the appeal is being made and with either the inspector who seized the filled milk or
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(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

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