



ANNO OCTAVO

# EDWARDI VII REGIS.

A.D. 1908.

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## No. 968.

An Act to Consolidate and Amend the Law relating to the Sale of Food and Drugs.

[Assented to, December 23rd, 1908.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

### PART I.

### PART I.

#### INTRODUCTORY.

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|--|----------------------|
| 1. This Act may be cited as "The Food and Drugs Act, 1908."                              | Short title.         |
| 2. This Act is divided into parts, as follows:—  | Parts.               |
| PART I.—Introductory:  |                      |
| PART II.—Administration:   |                      |
| PART III.—Description of Offences:   |                      |
| PART IV.—Analysis:   |                      |
| PART V.—Penalties and Procedure:   |                      |
| PART VI.—Regulations.  |                      |
| 3. This Act shall commence on the first day of June, one thousand nine hundred and nine. | Commencement of Act. |
| 4. The following Acts are hereby repealed:—  | Repeal.              |
| The Act, No. 5 of 1862, intituled "An Act to regulate the Sale of certain Poisons":      | "The                 |

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“The Sale of Food and Drugs Act, 1882”:

“The Food and Drugs Amendment Act, 1890”:

“The Food and Drugs Further Amendment Act, 1903.”

## Interpretation

## 5. In this Act, except where otherwise clearly intended—

“Adulterated food” shall mean any food which differs in composition, by reason either of the addition of foreign matter or of the abstraction of any matter, from food ordinarily known under the same name as that which the said food is represented to be, or which differs from the standard (if any) of such food fixed by regulation under this Act:

“Adulterated drug” shall mean any drug which differs in composition, by reason either of the addition of foreign matter or of the abstraction of any matter, from the drug ordinarily known under the same name as that which the said drug is represented to be, or which differs from the standard (if any) of such drug fixed by regulation under this Act:

“Analyst” shall mean an analyst appointed under this Act:

“Animal” shall mean and include mammal, fish, fowl, crustacean, mollusc, and all animals used as food:

“Central Board of Health” shall mean the Central Board of Health within the meaning of “The Health Act, 1898”:

“Court” shall mean a Special Magistrate, or two or more Justices of the Peace sitting to hear and determine any information for an offence against this Act:

“Drug” shall mean any substance used for or in the composition or preparation of medicine, whether for internal or external use, and includes any preservative, antiseptic, disinfectant, deodorant, narcotic, and cosmetic:

“Food” shall mean any article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food; and shall include flavoring matters, condiments, and confectionery:

“Government Analyst” means the person for the time being holding the office of Government Analyst under appointment by the Governor, or the person so appointed to perform the duties of the Government Analyst for the time being:

“Inspector” shall mean an inspector appointed under this Act and includes the Chief Inspector:

“Justice” shall mean a Justice of the Peace for the said State:

“Local

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- “Local Authority” shall mean any Local Board of Health or any County Board within the meaning of “The Health Act, 1898,” or of this Act:
- “Metropolitan area” means the Municipal Corporations of Adelaide, Brighton, Glenelg, Hindmarsh, Kensington and Norwood, St. Peters, Thebarton, Port Adelaide, and Unley, and the District Councils of Burnside, Campbelltown, Marion, Mitcham, Payneham, Prospect, Walkerville, West Torrens, and Yatala South; and also such other local boards as may on their request by Proclamation be declared to be within the metropolitan area:
- “Patent medicines” includes all proprietary and secret medicines and all infant and patent foods:
- “Person” includes any body of persons, whether corporate or unincorporate:
- “Poisons” means such articles as the Governor by Proclamation published in the *Government Gazette* from time to time declares to be poisons within the meaning of this Act:
- “This Act” includes any regulation made under this Act.

## PART II.

## ADMINISTRATION.

## PART II.

6. It shall be the duty of the Central Board of Health to enforce this Act, and for this purpose it shall have and exercise throughout the whole State all the powers and authorities herein conferred on it, and also every power, authority, and discretion vested in a local authority by this Act.

Central Board of Health to administer Act.

7. The Governor, on the recommendation of the Central Board of Health, may appoint a Chief Inspector of Food and Drugs and Inspectors of Food and Drugs, who shall act under the Central Board of Health, and who shall have and exercise throughout the State all the powers and authorities of an inspector appointed by a local authority under this Act.

Officers to be appointed under this Act.

See S.A., 493, 1890, sec. 4; 844, 1903, sec. 2.

8. (1) It shall be the duty of every local authority to put in force from time to time, as occasion may arise, the powers with which it is invested by this Act, so as to provide proper securities for the sale of food and drugs in a pure and genuine condition, and in particular to direct its officers to take samples for analysis.

Power for Central Board of Health to act in default of local authority.

Imp. Act, 1899, sec. 3.

(2) If the Central Board of Health, after communication with a local authority, is of opinion that the local authority has failed to execute or enforce any of the provisions of this Act in relation to any article of food or drug, the Board may, by order, empower an officer of the Board to execute and enforce those provisions, or to procure the execution and enforcement thereof, in relation to any article of food or drug mentioned in the order.

(3) The expenses incurred by the Central Board of Health or its officer under any such order may, if the Board direct, be regarded as a

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a debt due by such local authority to the Central Board of Health, and shall be paid by the local authority to the Board on demand, and in default the Board may recover the amount of the expenses from the local authority.

(4) An order of the Board shall be conclusive in respect of any default, amount of expenses, or other matter therein stated or appearing.

Appointment of analysts.

N.Z. 20, 1880, sec. 29.

**9.** (1) The Governor, on the recommendation of the Central Board of Health, may appoint persons possessing competent knowledge to be analysts, and may pay to them such remuneration and allowances for expenses as may be appropriated by Parliament for the purpose: Provided that no person shall be appointed an analyst who is directly or indirectly engaged or interested in the manufacture or sale of any food or drug.

(2) Notice shall be published in the *Government Gazette* whenever such appointment is made, stating the residence or place of abode of the person appointed.

See S.A., 257, 1882, sec. 21.  
Imp. Act, 1875, sec. 19.  
N.Z., 20, 1880, sec. 38.

(3) Every analyst shall report quarterly to the Central Board of Health the number of articles analysed by him under this Act during the preceding three months, and shall specify the result of each analysis.

Appointment and duties of officers of local authorities.

S.A., 257, 1882, sec. 11.

**10.** (1) Any local authority may, and when required so to do by the Central Board of Health shall, appoint one or more Inspectors of Food and Drugs, who shall have all the powers by this Act conferred upon them, and shall exercise such within the district of the local authority by which they are appointed.

(2) Any two or more local authorities may appoint the same person as Inspector of Food and Drugs.

Powers of Government Analyst.  
S.A., 844, 1903, ec. 3.

Officer of Health to have powers of Inspector.  
New.

**11.** The Government Analyst shall have and exercise throughout the State all the powers and authorities of an analyst under this Act.

**12.** Every Officer of Health appointed under "The Health Act, 1898," or any Act amending or substituted for that Act, shall have all the powers and authorities of an inspector under this Act in the district for which he has been appointed.

Inspectors' powers under Bread Act.

New.

**13.** Every Inspector under this Act shall have all the powers and authorities of an inspector under "The Bread Act, 1891," or any Act amending the same or substituted therefor.

Expenses of executing Act.  
See S.A., 257, 1882, sec. 32.  
Imp. Act, 1875, sec. 29.

**14.** The expenses of executing this Act shall be borne by the local authorities incurring the same, and, in the case of the Central Board of Health, by the general revenue of the State.

Governor may declare any two or more districts to be a County District.

**15.** The metropolitan area is hereby declared to be a County District for the purposes of this Act, under the name of the Metropolitan County District, and any other two or more contiguous districts

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districts may be proclaimed by the Governor a County District to be designated by some distinctive name specified in the Proclamation.

A County Board, consisting of not less than six members, shall be constituted for the metropolitan area by Proclamation by the Governor in manner prescribed by such Proclamation.

Upon the Proclamation of any other County District a County Board, consisting of not less than six members, shall be constituted for such district in manner prescribed by the Proclamation.

Local authorities forming a County District shall elect the members of the County Board in the same manner as elective members of the Central Board are elected under "The Health Act, 1898," and they shall hold office for a like period, except for the first year, when one half shall retire by lot, and subsequently one half longest in office shall retire annually.

Members of Board,  
how elected.

At the first meeting of the County Board after it is constituted, and after each annual election, the members thereof shall elect one of their number to act as chairman, who shall hold office for one year.

Election of chairman.

Local authorities forming a County Board shall elect two auditors, who shall hold office for two years, except for the first year, when one shall retire by lot.

Election of auditors.

County Boards shall cause the accounts to be balanced and an abstract of the receipts and expenditure prepared for each year ending on the thirtieth day of November, and shall publish in the *Government Gazette*, within one month of the yearly audit, an abstract of the receipts and expenditure as allowed by the auditors, and copies of such abstract shall be sent to all local authorities forming the County District.

Publication of  
accounts.

Upon the constitution of any County Board by Proclamation—

Functions of County  
Board.

- (1) All the powers, duties, and liabilities vested in or imposed on the local authorities in the County District by virtue of this Act shall be vested in and imposed on the County Board:
- (2) For the purposes of the County Board every local authority within the County District shall, if and whenever required by the County Board, contribute annually such sum as the County Board may deem necessary for enabling the County Board to carry out the powers and duties vested in it by virtue of this Act.
- (3) Notwithstanding anything hereinbefore contained, the sum to be annually contributed for the purposes of this Act by each local authority in the metropolitan area shall not in any one year exceed an amount equivalent to a rate of One Farthing in the Pound on the annual assessment of each local authority.

Each County Board shall have a common seal, and shall meet once at least in each month.

Each

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Each County Board may appoint such officers as it may deem necessary for the administration of this Act within the County District.

The Governor, by Proclamation, may remove from a County District any local authority or add any contiguous local authority.

The provisions of this section shall *mutatis mutandis* apply to the Metropolitan County District and to the County Board constituted therefor.

Liabilities and duties  
of local authorities  
as County Boards.

**16.** If the local authorities constituting a County Board under "The Health Act, 1898," shall at any time hereafter be constituted a County Board under this Act, or *vice versa*, then, and in such case the powers, duties, and liabilities vested in or imposed on such local authorities by virtue of this Act and "The Health Act, 1898," shall be exercisable by such County Boards unitedly, to the intent that the two County Boards shall act as one Board.

- (a) At the first meeting of such County Board, and after each annual meeting, the members thereof shall elect one of their number to be chairman, who shall hold office for one year :
- (b) There shall be no necessity on the part of each of such County Boards to keep separate accounts, or to appoint separate auditors, or to gazette separate abstracts of such accounts :
- (c) The auditors of the County Board first constituted shall act as auditors of the last constituted County Board until the end of the current financial year ; afterwards the auditors shall, as hereinbefore provided, be appointed by such united Boards :
- (d) The Governor may from time to time, by Proclamation or order, settle, adjust, or determine any rights, liabilities, or matters affecting such County Boards, or which may from time to time arise in the exercise by them of the aforesaid powers and duties or otherwise, and may in the same manner do all acts and things in order to effectually carry out the intention of the preceding provisions.

Advisory Committee.

**17.** The Governor shall appoint for the purpose of this Act an Advisory Committee, consisting of not more than seven members. Such Committee shall consist of the persons for the time being holding the following offices, namely—

The Chairman of the Central Board of Health, who shall preside ;

The Professor of Chemistry in the University of Adelaide ;

The Government Analyst ;

The Officer of Health for the City of Adelaide ;

and three other persons conversant with trade requirements.

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Such members, when appointed by the Governor, shall act for no longer period than three years from the date of their appointment, but may be reappointed.

If any of the persons holding the above-mentioned offices decline to act on the Board, the Governor may appoint any other person in his stead.

Any member of the Committee may be removed by the Governor.

At all meetings of the Committee the Chairman shall have a vote, and, in the event of an equality of votes, a second or casting vote.

Any four members of the Committee shall constitute a quorum.

The members of the Committee, other than those employed in the Public Service, shall be paid attendance fees of such amount as may be prescribed by regulation.

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## PART III.

## DESCRIPTION OF OFFENCES.

**18.** (1) No person shall mix, color, stain, or powder, or order or permit any other person to mix, color, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state; and

Prohibition of the mixing of ingredients rendering food injurious, and of selling the same.

S.A., 257, 1882, sec. 4.

(2) No person shall sell any such article so mixed, colored, stained, or powdered.

Imp. Act, 1875, sec. 3.

Penalty in each case not exceeding Fifty Pounds.

**19.** (1) No person shall, except for the purpose of compounding as hereinafter described, mix, color, stain, or powder, or order or permit any other person to mix, color, stain, or powder, any drug with any ingredient or material so as to render the drug injurious to health, or alter its potency, or conceal its inferior quality, with intent that the same may be sold in that state; and

Prohibition of the mixing of ingredients rendering drugs injurious, and of selling the same.

S.A., 257, 1882, sec. 5.

Imp. Act, 1875, sec. 4.

(2) No person shall sell any such drug so mixed, colored, stained, or powdered.

Penalty in each case not exceeding Fifty Pounds.

**20.** No person shall be liable to be convicted under either of the two last preceding sections of this Act in respect of the sale of any article of food or of any drug, if he shows to the satisfaction of the Court before which he is charged that he did not know of the article of food or drug sold by him being so mixed, colored, stained, or powdered, as in either of those sections mentioned, and that he could not by analysis or other adequate test have obtained that knowledge.

Exemption in case of proof of absence of knowledge.

S.A., 257, 1882, sec. 6.

Imp. Act, 1875, sec. 5.

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Mixed articles for sale or in stock to be labelled.

New.

**21.** No person shall manufacture, expose for sale, or keep or store for the purpose of trade or commerce, any article of food or any drug that is mixed with or adulterated with any foreign substance, or is not in accordance with the standards of this Act, unless the vessel, tin, bottle, package, or other receptacle containing the same has affixed to it a label distinctly and legibly written or printed as in section 24.

If the defendant satisfies the Court that the article of food or the drug which is the subject matter of the prosecution was contained in an unopened vessel, tin, bottle, package, or other receptacle and was purchased by him from any manufacturer, importer, or wholesale dealer in South Australia named by the defendant, and that the defendant had no reason to believe that such food or drug was mixed with or adulterated with any foreign substance, or was not in accordance with the standards prescribed by this Act, the information shall be dismissed.

Penalty, not exceeding Five Pounds.

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

S.A., 257, 1882, sec. 7; 493, 1890, sec. 2. Imp. Act, 1875, sec. 6.

**22.** No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, or any adulterated food or drug, and no person shall have in his possession, control, or disposition for sale any article of food or any drug which is not of the nature, substance, and quality which he represents it to be or which it purports to be, or any adulterated food or drug, under a penalty in either case of not less than Five Pounds and not exceeding Twenty Pounds: Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say:—

- (1) If the defendant shall prove that any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure or alter the potency of the food or drug or conceal the inferior quality thereof:
- (2) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent:
- (3) Where the food or drug is compounded as in this Act mentioned:
- (4) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation:
- (5) Where spirits are not adulterated otherwise than by being diluted with water, and such dilution being estimated by Sykes's hydrometer shall not have reduced the spirits more than

Imp. Act, 1879, sec. 6.



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than twenty-five degrees under proof for brandy, whisky, rum, schnapps, unsweetened gin, or other spirits, or thirty-five degrees under proof for sweetened gin.

It shall be no defence to any prosecution under this section to allege or show— S. A., 257, 1882, sec. 7.

- I. That the purchaser, having bought only for analysis, was not prejudiced by such sale :
- II. That the article of food or drug in question, though defective in nature, substance, or quality, was not defective in all three or in more than one of such respects.

And in any such prosecution it shall, until the contrary is proved, be presumed that any article of food or any drug in the possession, control, or disposition of any person is in such person's possession, control, or disposition for sale.

**23.** No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser. Provision for the sale of compound articles of food and compounded drugs. S. A., 257, 1882, sec. 493, 1890, sec. 2. Imp. Act, 1875, sec. 7

Penalty not less than Five Pounds and not exceeding Twenty Pounds. Imp. Act, 1875, sec. 7

**24.** Provided that no person shall be guilty of any such offence under sections 22 and 23 if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed, and stating the substances and quantities thereof in such mixture. Protection from offences by giving of label. S. A., 257, 1882, sec. 9; 493, 1890, sec. 3. Imp. Act, 1875, sec. 8. Tas., 37, 1903, sec. 123.

Such label shall not be deemed to be distinctly and legibly written or printed within the meaning of this section unless it is so written or printed that the notice of mixture given by the label is not obscured, either wholly or in part, by other matter on the label ; nor shall a printed announcement on the wrapper be deemed a label within the meaning of this section. See Imp. Act, 1899, sec. 12.

**25.** Nothing in this Act shall require the disclosure of any trade secret or formula for the making, preparing, or compounding of any article of food or any drug, a standard for which has been fixed under this Act: Provided that such food or drug is in accordance with such standards. No penalty where article according to Government standard.

**26.** (1) No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature ; and Prohibition of the abstraction of any part of an article of food before sale, and selling without notice.

(2) No person shall sell any article so altered without making disclosure to the purchaser of the alteration. S. A., 257, 1882, sec. 10. Imp. Act, 1875, sec. 9.

Penalty in each case not exceeding Twenty Pounds.

**27.** (1) No

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Licensing of milk  
sellers.

New.

See S.A., 711 1898,  
sec. 111.

27. (1) No person shall sell or offer, expose, store, carry, or deliver for the purpose of sale, any milk unless—

(a) He is licensed as a vendor of milk by the local authority of the district or county district within which such milk is sold, or offered, exposed, stored, carried, or delivered; and

(b) All premises used by him in connection with such milk as dairy, store, or shop are registered by the local authority of the district or county district wherein such premises are situated.

(2) This section shall not apply if such milk is supplied to a factory for the purpose of being manufactured into butter or cheese, and is so used.

Penalty not exceeding Twenty Pounds.

(3) For the purposes of this section, when any person carries or sends, or causes to be carried or sent, any milk for the purpose of sale from the district or county district of one local authority to the district or county district of another local authority he shall be deemed to deliver such milk within the first-mentioned district or county district: Provided this subsection shall not apply to milk carried or sent to the metropolitan area, and every vendor of milk who is registered in any district outside the metropolitan area shall, on demand, be registered by the Metropolitan County Board without any charge or fee for such registration.

(4) If the local authority of any district or county district does not for the time being provide for the licensing of milk vendors in such district or county district, the Central Board of Health shall provide for such licensing; and the provisions of subsection (1) hereof as to licensing shall be deemed to be complied with if the person who sells, or offers, exposes, stores, carries, or delivers for sale is licensed as a vendor of milk by the said Central Board.

(5) If the local authority of any district or county district does not for the time being provide for the registration of dairies, milk stores, and milk shops in such district or county district the Central Board of Health may provide for such registration; and the provisions of subsection (1) hereof as to registration shall be deemed to be complied with if the premises required to be registered are registered by the said Central Board.

(6) Any licence or registration granted by the Central Board of Health, as provided by subsections (4) and (5) hereof, shall remain in force for a year after regulations made or adopted by the local authority and providing for such licensing or registration (as the case may be) come into force.

(7) No further or other licence or registration than those mentioned in this section shall be required for the selling or the offering, exposing, storing, carrying, or delivering of milk for the purpose of sale;

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sale ; but no local authority shall issue any licence or register any dairy, milk store, or milk shop, unless it is satisfied that the applicant is a fit person, or that the dairy, milk store, or milk shop sought to be registered is suitable.

(8) Local authorities may, by regulation made under "The Health Act, 1898," fix and provide for the payment and recovery of fees for the licensing of cowkeepers, dairymen, and vendors of milk, and the registration and inspection of dairies, milk stores, and milk shops: Provided always that nothing in this Act contained shall render invalid any regulations not repugnant to or inconsistent with this Act heretofore or hereafter made under "The Health Act, 1898," in respect of any matters which are not the subject of regulations under this Act.

**28.** No manager or proprietor of a butter or cheese factory shall sell or deliver to any person milk, other than skimmed milk, received or purchased by him for the purpose of being manufactured into butter or cheese.

Managers of factories may not sell milk.

Penalty, not exceeding Twenty Pounds.

**29.** (1) Every person who himself or by his servant, in any street, highway or place of public resort, sells, or carries about for sale or delivery, milk or cream from a vehicle or from a can or other receptacle shall have conspicuously inscribed on the vehicle, can, or receptacle his name and address, and in default shall be liable to a penalty not exceeding Two Pounds.

Provision as to name and address of person selling milk or cream in a public place.

Imp. Act, 1899, sec. 9.

(2) Where, in any prosecution against such person with respect to the sale or delivery of milk or cream, it is proved that milk or cream was carried in a vehicle, can, or other receptacle having the name of such person inscribed thereon, it shall, until the contrary is proved, be presumed that the person in charge of such vehicle, can, or other receptacle was the servant of the defendant, and authorised by him to sell or deliver such milk or cream.

**30.** No person shall expose or offer for sale any condensed, separated, or skimmed milk unless the same is contained in a tin or other receptacle bearing a label clearly visible to the purchaser, on which the words "condensed milk," or "machine-skimmed milk," or "skimmed milk" (as the case may require) are printed in large and legible type.

Provisions as to condensed, separated, or skimmed milk.

Imp. Act, 1899, sec. 11.

Penalty, not exceeding Two Pounds.

**31.** (1) No person shall sell, offer, keep, or deliver for sale, whether wholesale or retail, or exchange, or authorise, direct, or allow the sale of any milk from cows to his knowledge suffering from anthrax, tuberculosis, or pleuro-pneumonia, or suffering from any disease from time to time declared by the Governor by notice in the *Government Gazette* to come within the meaning of this section.

Prohibition of sale of milk of diseased cow. Liability of servant. Master's liability to servant.

Vic., 1098, 1890, sec. 50.

W.A., 24, 1898, secs. 52, 54, 55.

Penalty, not exceeding Twenty Pounds.

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(2) The Court before which any person is charged with an offence against this section shall dismiss the charge if it appears to the Court that the defendant took all reasonable means to inquire and ascertain whether or not the milk so sold by him, or so allowed to be sold, came from cows suffering as aforesaid.

(3) In any prosecution with respect to the sale or delivery of milk, it shall be no defence that the defendant is only the servant or agent of the owner of such milk, or is only entrusted for the time being with such milk by such owner, but such servant or agent and such owner shall both be liable.

(4) If such defendant, being a servant or agent, prove that he delivered such milk in the same state in which he received it from his master or employer, and without knowledge that the nature, substance, or quality of such milk was injuriously affected, he may, notwithstanding that such master or employer has himself been convicted and fined, recover in any Court of competent jurisdiction from such master or employer the amount of any penalty in which he may have been convicted in respect of such prosecution, together with the costs paid, or to be paid, by him upon such conviction, and those incurred by him in and about his defence thereto.

Regulation of sale  
of spurious butter.

Vic., 1098, 1890,  
sec. 51.

W.A., 24, 1898,  
sec. 53.

**32.** No person shall make, prepare, or compound for sale, sell, offer, keep, or expose for sale, any compound of fats, oils, or similar substances other than the fat of milk, or any article not made exclusively of milk or cream, or both, with or without salt or other preservative, and with or without the addition of coloring matter, and not the legitimate product of the dairy, in imitation of or as a substitute for butter, unless a conspicuous and legible brand or mark indicating the nature of such compound is placed upon each piece or pat, and on every jar, parcel, cask, case, or package that contains any such compound or article.

Penalty, not exceeding Twenty Pounds.

Power to seize and  
destroy.

Any such compound or article not being genuine butter, and not being branded or marked as herein provided, may be forthwith seized and destroyed or otherwise disposed of by any officer of the Central Board of Health, or of any local authority, without any other authority than this Act.

Inspector to be  
furnished with list  
of vendors.

**33.** Any vendor of milk or cream or meat shall, at the request in writing of any inspector, furnish to such inspector the names and addresses of persons from whom he has received any milk or cream or meat indicated by such inspector, and the respective dates upon which such milk or cream or meat was received.

Penalty, not exceeding Five Pounds.

Power to inspect food  
and drugs prepared or  
offered for sale.

Tas., 37, 1902,  
sec. 104.

See Vic., 1098, 1890,  
sec. 53

**34.** Any inspector may at all reasonable times enter on any land or premises or public place, and—

- i. Inspect and examine any animal offered for sale or slaughter or being prepared for sale or slaughter for human consumption; or
- ii. Inspect

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11. Inspect and examine any carcass or other article of food or drug exposed or offered for sale, or deposited for the purpose of sale or of preparation for sale, or that has recently been sold for human consumption, whether such articles are fresh or preserved, or are in tins or other closed packages or not.

Ibid.

**35.** If, on such inspection and examination, it appears to the inspector that any such animal or article of food or drug is diseased, or unsound, or unwholesome, or unfit for human consumption, he may cause it to be seized and carried away in order that it may be dealt with in a summary manner, as follows, that is to say:—

Diseased or unsound food or drugs may be seized and destroyed.

See Tas, 37, 1903, sec. 105.

Vic., 1098, 1890, secs. 52, 53, 54.

- I. If the inspector is satisfied that the animal or article of food or drug is utterly unfit for human consumption, and should forthwith be destroyed in order to prevent offensiveness or disease, he may, on the authority in writing of a Justice, cause it to be destroyed accordingly:
- II. In any other case the animal or article of food or drug shall be kept to abide the order of a Special Magistrate or two Justices in proceedings which shall be forthwith taken against the person in whose possession or on whose premises it was when seized:
- III. If in such proceedings it appears to the Court that the animal or article so seized is diseased, or unsound, or unwholesome, or unfit for human consumption, the Court shall by order—
  - (a) Condemn it and direct it to be destroyed or otherwise disposed of, so as to prevent it from being used for human consumption, at the expense in all things of the defendant; and also
  - (b) Fix the expenses incurred in seizing and keeping the animal or article to abide the proceedings, and require the defendant to pay the same; and may also
  - (c) Impose on the defendant a penalty not exceeding Twenty Pounds:
- IV. For all purposes of this section it shall, until the contrary is proved, be presumed that the animal or article of food or drug was intended to be sold or prepared for sale for human consumption.

**36.** On complaint made on oath by any inspector or constable, any Justice may grant a warrant to such officer to enter any building or part of a building in which such officer has reason for believing that there is kept or concealed any drug or article intended for the food of man, which is intended for sale, and is diseased, unsound, or unwholesome, or unfit for the food of man; and to search for, seize, and carry away any such drug or food in order to have the same dealt with by a Special Magistrate or two Justices under this Act.

Search warrant may be granted by a Justice.

Imp. Public Health Act, 1875, sec. 119

Same amended, 1890, sec. 28.

Any

*The Food and Drugs Act.—1908.***PART III.**

Penalty for obstruction.

Any person who obstructs any such officer in the performance of his duty under such warrant shall, in addition to any other punishment to which he may be subject, be liable to a penalty not exceeding Twenty Pounds.

Lead pipe for drawing beer.

New.

**37.** No person shall use for drawing from any receptacle any fermented liquor known as beer, ale, porter, stout, or any other malt liquor for the purpose of sale—

- i. Any pipe made wholly or partly of lead :
- ii. Any pipe which is not kept in a clean and wholesome condition, or which contains any matter, sediment, or growth likely to be injurious to health.

Penalty, not exceeding Five Pounds.

Testing of spirits.

See S.A., 191, 1880, sec. 127; S.A., 319, 1884, s. 58.

**38.** Any inspector may at any reasonable time enter any premises where spirits are sold or exhibited or stored or prepared for the purpose of sale, and, without purchasing any quantity, may test the alcoholic strength of such spirits, and, if such spirits are found to be diluted beyond the limit stated in section 22 of this Act, may also, without paying for the same, take and carry away any quantity of such spirits, and shall, if required to do so, leave a sealed sample of the quantity so taken with the seller or person in charge of such spirits.

Penalty.

If such spirits are found to be diluted beyond such limit, the seller or person in charge of the same shall be liable to a penalty of not less than Five Pounds nor more than Twenty Pounds.

**PART IV.****PART IV.****ANALYSIS.**

Power to owner or purchaser of an article of food to have it analysed.  
S.A., 257, 1882, sec. 13; Imp. Act, 1875, sec. 12.

**39.** Any owner or purchaser of an article of food or of a drug, on payment of a fee according to a scale to be fixed by the Governor by Proclamation, shall be entitled to have such article analysed and to receive from the analyst a certificate of the result of his analysis.

Officer or constable to obtain a sample of food or drug in course of transit or during delivery to submit to analysis.

**40.** (1) Any inspector or any police constable, under the direction of any local authority, may procure, without payment, at the place of delivery, or at any railway station or other place during transit, or upon the premises of or elsewhere in the possession of any person for the purpose of carriage, any reasonable quantity as a sample of any food or drug in course of delivery to the purchaser or consignee in pursuance of any contract or agreement for the sale to such purchaser or consignee of such food or drug; and such inspector or constable may send or deliver the same to an analyst to be analysed; and after analysis proceedings shall be taken in like manner in all respects as if such inspector or constable had purchased the same from the seller or consignor under section 39 of this Act.

See S.A., 257, 1882, sec. 14.

Imp. Acts, 1879, sec. 3; 1899, sec. 14.

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## PART IV.

(2) If the seller or consignor, or any person entrusted by him, or either of them for the time being, with the charge of such food or drug, shall refuse to allow any such officer or constable to take the quantity which such officer or constable shall require for the purpose of analysis, he shall be liable to a penalty not exceeding Twenty Pounds.

Penalty for refusing to give food or drugs in transit for analysis.

S.A. 257, 1882, sec. 15.

Imp. Act, 1879, sec. 4.

(3) In the case of a sample taken of milk in course of delivery under this section, the person taking the sample shall forward a portion of the sample marked, and sealed, or fastened up, to the consignor if his name and address appear on the can or package consigning the article sampled.

Division of samples taken in course of of delivery or transit.

Imp. Act, 1899, sec. 10.

41. (1) Any inspector or any police constable, under the direction and at the cost of the local authority, may at any time in the day time or at any time when work or business is being carried on therein, enter any manufactory, warehouse, store, building, or place where food or drugs are manufactured, exposed for sale, or kept or stored for the purpose of trade or commerce, and may require the owner or occupier, or the agent or servant of either of them, to show and permit the inspection of the vessels or other receptacles in which such food or drug is at the time kept, and all apparatus and utensils used in the preparation, sale, distribution or delivery of such food or drug, and may select, demand, and take, for the purpose of examination, or of analysis by an analyst, samples of such food or drugs on payment or tender of the fixed rate (if any) or the current market or a reasonable price therefor.

Inspection and sampling of food and drugs.

See S.A., 257, 1882, sec. 14.

Imp. Act, 1875, sec. 13.

(2) If any such inspector or constable, as above described, shall apply to purchase any article of food or any drug exposed or kept for sale, or on sale, on any premises or in any factory, warehouse, workshop, shop, or in any street or open place, or being carried for sale or delivery as may be selected by him, and shall tender not less than the fixed rate (if any) or the current market or a reasonable price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing, keeping, or having the same for or on sale, or carrying the same for sale or delivery, shall refuse to sell the same to such inspector or constable, such person shall be liable to a penalty not exceeding Twenty Pounds: Provided that where any article of food or drug is exposed or kept for sale or on sale, or carried for sale or delivery in an unopened tin or packet, duly labelled, no person shall be required to sell less than the unopened tin or packet of such food or drug. In any prosecution under this section, if it be proved that the article of food or drug charged in the information was in the possession of the defendant it shall be presumed that it was exposed or kept for sale, or was on sale, or was being carried for sale or delivery (as the case may be) unless the defendant prove to the contrary.

Person refusing to sell any article to any officer liable to a penalty.

S A , 257, 1882, sec. 19.

Imp. Acts, 1875, sec. 17; 1879, sec. 1899, sec. 18.

(3) If any rates have been fixed by regulation for the payment for samples of any food or drug it shall not be necessary for any inspector or constable to pay or tender any higher price for such sample.

42. (1) The

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## PART IV.

Provision for dealing with the sample when purchased.

S.A., 257, 1882, sec. 16.  
Imp. Act, 1875, sec. 14; 1899, sec. 13.

**42.** (1) The person purchasing any article under the provisions of section 39 or 41 with the intention of having the same analysed and taking proceedings shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article his intention to have the sample analysed, and shall divide the article into three parts, to be then and there separated, and each part to be marked and sealed, or fastened up in such a manner as its nature will permit, and shall, if required to do so, deliver one of the parts to the seller or his agent.

(2) He shall afterwards retain one of the said parts for future comparison, and send or deliver the third part to the Central Board of Health.

(3) The Board shall send or deliver the sample to an analyst, who shall with all convenient speed analyse the same and give a certificate to the Board wherein he shall specify the results of the analysis.

Form of certificate. S.A., 257, 1882, sec. 20.  
Imp. Act, 1875, sec. 18.

Analyses for local authorities free of charge.  
New.

**43.** Every certificate of analysis under this Act shall be in the form set forth in the schedule hereto, or to the like effect.

**44.** Every analysis made under sections 40 and 41 for a local authority, with the concurrence of the Central Board of Health, shall be made without charge to such local authority.

## PART V.

## PART V.

## PENALTIES AND PROCEDURE.

Obstruction of officer in discharge of his duties.

Imp. Act, 1899, sec. 16.

**45.** Any person who wilfully obstructs or impedes any inspector or other officer in the execution of his duties under this Act, or by any gratuity, bribe, promise, or other inducement prevents, or attempts to prevent, the due execution by such inspector or officer of his duty under this Act, shall be liable to a penalty not exceeding Twenty Pounds.

Local authority, &c., indemnified.

London Public Health Act, Imp., 1891, sec. 124.

**46.** Nothing done *bona fide* by any local authority or inspector or other person acting under the direction or in the proper and ordinary course of their duty of a local authority or the Central Board of Health shall subject them or any of them personally to any action, liability, claim, or demand whatsoever.

Penalties for offences.

See S.A., 257, 1882 sec. 4.  
Imp. Act, 1899, sec. 17.

**47.** (1) In this Act the penalty set forth at the foot or end of or elsewhere in a section indicates that any contravention of such section, whether by act or omission, shall be an offence, punishable, upon conviction, by the penalty so set forth.

(2) Where no minimum penalty is set forth for any offence against any provision of this Act the minimum penalty shall be one-tenth of the maximum penalty.

(3) Where a person guilty of an offence under this Act is liable to a penalty not exceeding Twenty Pounds he shall be liable on



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on a second conviction for a second offence to a penalty not exceeding Fifty Pounds, and on any third or subsequent conviction to a penalty not exceeding One Hundred Pounds.

(4) Where, under any provision of this Act a person guilty of an offence is liable to a penalty which may extend to Fifty Pounds or more as a maximum, and the offence, in the opinion of the Court, was committed by the personal act, default, or culpable negligence of the person accused, that person shall be liable, if the Court is of opinion that a fine will not meet the circumstances of the case, to imprisonment, with or without hard labor, for a period not exceeding six months.

48. If any person convicted of an offence under this Act shall afterwards commit a like offence, it shall be lawful for the Court before which the second conviction shall take place to cause the offender's name, place of abode, and offence, and the penalty imposed to be published at the expense of such offender in such newspapers or in such other manner as the Court shall direct.

On second offence,  
power to publish  
name of offender.  
N.Z., 20, 1880,  
sec. 40.

The expense of such publication shall be deemed part of the costs attending the conviction, and shall be recoverable in the same manner as costs are recoverable.

Expense of publica-  
tion.

49. Every monetary penalty imposed and recovered under this Act shall be paid in the case of a prosecution by an officer of a local authority or constable to such officer or constable, and shall be by him paid to the authority for which he acts, and be applied towards the expenses of executing this Act; but in the case of any prosecution by the Central Board of Health the penalties shall be paid into the general revenue.

Application of  
penalties.

S.A., 257, 1882,  
sec. 23.

Imp. Act, 1875,  
sec. 26.

50. When an analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against any of the provisions of this Act has been committed, any person may take proceedings for the recovery of the penalty herein imposed for such offence before a Special Magistrate or any two Justices of the Peace.

Proceedings against  
offenders.

See S.A., 257, 1882,  
sec. 22.

Imp. Act, 1875,  
sec. 20.

Tas., 37, 1903,  
sec. 138.

51. (1) When any article of food or drug has been purchased from any person for analysis, any information shall be laid within twenty-eight days from the time of the purchase.

Time for proceeding  
and regulation as to  
summons.

(2) In any prosecution under this Act the summons shall state particulars of the offence alleged, and also the name of the informant, and, except in proceedings under section 35, shall not be made returnable in less time than fourteen days from the day on which it is served, and there must be served therewith a copy of any analyst's certificate obtained on behalf of the prosecutor.

Summons to state  
particulars.

Imp. Act, 1899,  
sec. 19.

(3) In any proceedings under this Act any article that may be both an article of food and a drug may be described either as an article of food or as a drug.

(4) At

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Certificate of analyst *prima facie* evidence for the prosecution or defence, but analyst to be called if required.

S.A., 257, 1882, sec. 25.

Imp. Acts, 1875, sec. 21; 1899, sec. 22.

Justices may act though members of Central Board or local authority or liable to contribute.

London Public Health Act, Imp., 1891, sec. 122.

Power of Court to have articles of food and drug analysed.

S.A., 257, 1882, sec. 26.

Imp. Act, 1875, sec. 22.

Proceedings in respect of offences.

(4) At the hearing of any proceedings under this Act the production by the informant or the defendant of a certificate purporting to be signed by an analyst shall be sufficient evidence of the identity of the food or drug analysed, and of the result of the analysis and of the facts therein stated, without proof of the signature of the person appearing to have signed the same, unless either party shall require that the analyst shall be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced: Provided that at least three clear days' notice before the return day shall be given to the analyst if he is required to attend as a witness and: Provided that a copy of a certificate to be used by the defendant shall be sent to the informant at least three clear days before the return day, and if it be not so sent the Court may, if it thinks fit, adjourn the hearing on such terms as it may deem proper.

**52.** No Judge, Special Magistrate, or Justice of the Peace shall be debarred from hearing and determining informations or otherwise acting as such Judge, Special Magistrate, or Justice under this Act by reason—

- I. Of his being a member of the Central Board of Health or of any local authority; or
- II. Of his being one of several ratepayers, or as one of any other class of persons liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses incurred by a local authority are to be defrayed: or
- III. Of his having taken part as such member of the Central Board or local authority in any deliberation out of which such prosecution may have arisen: or of his having been present at or taken part as such member in any meeting of such Central Board or local authority at which any information so to be heard and determined may have been advised or been directed to be laid.

**53.** The Court before which any proceedings are taken, or the Local Court of Full Jurisdiction, on any appeal, may, upon the request of either party, in its discretion cause any article of food or drug to be sent to the Central Board of Health, who shall thereupon direct an analyst to make an analysis and give a certificate to such Court of the result of the analysis; and the expense of such analysis shall be paid by the complainant or the defendant as the Court may by order direct.

**54.** All proceedings in respect of offences against this Act shall be by information, and shall be heard and determined in a summary way before any Special Magistrate or any two Justices under Ordinance No. 6 of 1850 and Act No. 298 of 1883-4, and any Act for the time being in force amending or substituted therefor.

**55.** There

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**55.** There shall be an appeal from any order or conviction or dismissal under this Act to the nearest Local Court of Full Jurisdiction, or, at the option of the appellant, to the Local Court of Full Jurisdiction at Adelaide; and the proceedings on such appeal shall be conducted in manner appointed by the Ordinance No. 6 of 1850 and the Act No. 298 of 1883-4 and any Act amending or substituted for the same.

Appeal to nearest Local Court of Full Jurisdiction.  
S.A., 257, 1882, sec. 27.  
Imp. Act, 1875, sec. 23.

The Local Court may state a special case for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case and make such order therein as to the said Supreme Court shall appear just.

Special case.

**56.** In any prosecution under this Act, where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Act, it shall be incumbent upon him to prove the same.

In any prosecution defendant to prove that he is protected by exception or otherwise  
S.A., 257, 1882.  
Imp. Act, 1875, sec. 24.

**57.** If the defendant in any proceedings under this Act prove to the satisfaction of the Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the purchaser, and with a written warranty to that effect, and that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as that in which he purchased it, the information shall be dismissed, but the defendant shall be ordered to pay the costs incurred by the informant unless the defendant shall have given due notice to the informant that he will rely on the above defence.

Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty  
No costs except on issues proved against him.  
S.A., 257, 1882, sec. 29.  
Imp. Act, 1875 sec. 25.

**58.** (1) A warranty shall not be available as a defence to any proceeding under this Act unless the defendant has, within seven days after service of the summons, sent to the purchaser a copy of such warranty with a written notice stating that he intends to rely on the warranty, and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to such person.

Provisions as to use of warranty as defence, and proceedings against the warrantor.  
Imp. Act, 1899, sec. 20.

(2) The person by whom such warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the Court may, if it thinks fit, adjourn the hearing to enable him to do so.

(3) A warranty given by a person resident outside South Australia shall not be available as a defence to any proceeding under this Act.

(4) Where the defendant is a servant of the person who purchased the article under a warranty, he shall, subject to the provisions of this section, be entitled to rely on section 57, in the same way as his employer or master would have been entitled to do if he had been the defendant: Provided that the servant further proves that he had no reason to believe that the article was otherwise than that demanded by the prosecutor.

(5) Where

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(5) Where the defendant in a prosecution under this Act has been discharged under the provisions of section 57, any proceedings under this Act for giving the warranty relied on by the defendant in such prosecution may be taken as well before a Court having jurisdiction in the place where the article of food or drug to which the warranty relates was purchased for analysis as before a Court having jurisdiction in the place where the warranty was given.

(6) Every person who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing shall be liable on summary conviction to a fine not exceeding Twenty Pounds, unless he proves to the satisfaction of the Court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

Punishment for forging certificate or warranty.

S.A., 257, 1882, sec. 30.  
Imp. Acts, 1875, sec. 27; 1899, sec. 206).

**59.** (1) Any person who shall forge, or who shall utter, knowing it to be forged, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanor, and be punishable on conviction by a penalty of not less than Fifty Pounds nor more than Two Hundred Pounds, or by imprisonment for a term of not exceeding two years with hard labor. .

Punishment for applying wrong certificate or warranty.

(2) Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug shall be guilty of an offence against this Act, and be liable to a penalty not exceeding Twenty Pounds.

Punishment for giving false label.

(3) Every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold shall be liable to a penalty not exceeding Twenty Pounds.

Punishment for publishing false warranty or analysis.

(4) Any person who shall for any purpose whatever, directly or indirectly, publish or advertise in any way any matter purporting to be a warranty or analysis under this Act, or to be part of any such warranty or analysis, or any matter purporting to be a copy of any such warranty or analysis or part thereof, unless such matter be accurate and true in every particular, shall be liable to a penalty not exceeding Twenty Pounds.

New.

Analysis made for purposes of Act not to be used for advertising.

New.

(5) Any person who shall in any writing, for trade purposes or any advertisement, refer to any analysis made for the purposes of this Act shall be liable to a penalty not exceeding Twenty Pounds.

Proceedings by indictment and contracts not to be affected.

S.A., 257, 1882, sec. 31.  
Imp. Act, 1875 sec. 28.

**60.** Nothing in this Act contained shall take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto: Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in

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in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug, the subject of such conviction, was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

PART V.

## PART VI.

PART VI.

## REGULATIONS.

**61.** The Governor, acting on the advice of the Advisory Committee, may from time to time make regulations, which may vary in their application according to time and place or the destination of the article referred to in the regulation prescribing all such things as are necessary or convenient to be prescribed for the purposes of this Act, including, amongst other things, the purposes following:—

Power to make regulations.

See Tas., 37, 1903, sec. 147.

Imp. Act, 1899, sec. 4.

N.S.W., 30, 1902, secs. 77, 86

- (1) The inspection and analysis of drugs, chemicals, patent medicines, and proprietary articles:
- (2) Regulating and fixing the standards of food and drugs that may be sold, and of the several ingredients of any such food or drug:
- (3) Prescribing what substances and what quantities thereof added to any article of food or drug shall render such article of food or drug injurious to health within the meaning of this Act:
- (4) Prohibiting the sale, and providing for the destruction of such drugs and chemicals and articles of food as are injurious to health within the meaning of this Act, or not in accordance with the regulations under this Act:
- (5) Publishing reports of analyses of foods and drugs made by the Government Analyst, together with the names and addresses of the dealers and the prices at which such articles were sold:
- (6) Regulating and fixing the wording, lettering, and other contents of labels on any articles of foods and drugs, including patent medicines and proprietary articles:
- (7) The regulation and restriction and conditions of the sale of poisons:
- (8) Fixing rates for payment for samples of articles of food and of drugs required to be purchased or procured under section 41 of this Act:

(9) Securing

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- (9) Securing the wholesomeness, cleanliness, freedom from contamination and adulteration of any food or drug, and securing the cleanliness of receptacles, places, vehicles, and vessels used for the manufacture, preparation, storing, packing, delivery, or serving of any food or drug :
- (10) Imposing penalties not exceeding Fifty Pounds for any breach of the regulations :
- (11) The licensing of cowkeepers, dairymen, and vendors of milk, and the registration and inspection of dairies, milk stores, and milk shops, the fees to be paid for such licensing, registration, and inspecting respectively, and the payment and recovery of such fees :
- (12) Prohibiting the use of specified substances or methods in the catching, feeding, or drugging of animals shortly prior to death, such animals being intended for sale as food.

Publication of regulations.

**62.** All regulations so made shall—

- I. Be published in the *Government Gazette* ;
- II. Take effect from the date of publication, or from a later date to be specified in such regulations ; and
- III. Be laid before both Houses of Parliament within one month after publication if Parliament is then in Session, and if not, then within thirty days after the commencement of the next Session ;

but if either House of Parliament passes a resolution at any time within thirty sitting days after such regulations have been laid before such House disallowing any regulation, or part thereof, such regulation, or part thereof, shall thereupon cease to have effect : Provided that if Parliament shall not be in Session for thirty days after such regulations shall have been laid before it, then no regulation shall continue to have any force or effect if disapproved by either House of Parliament within thirty days after the commencement of the next Session of Parliament.

Local by-laws and regulations to continue in force.

**63.** For the purposes of this Act, and notwithstanding anything herein contained, all by-laws and regulations with respect to dairies, milk stores, milk shops, and cowkeepers, dairymen, and vendors of milk in force within the district of any local authority at the time of the coming into operation of this Act shall, except where or so far as inconsistent with or repugnant to the provisions of this Act, remain in full force and virtue until altered, modified, amended, or repealed by regulations validly made under this Act.

By-laws and regulations evidence on production of *Government Gazette* containing copy thereof.

M.C.A., 1890, sec. 327.

**64.** In any prosecution for any offence under any regulations made in pursuance of this Act, or of any by-laws or regulations referred to in section 63, the production of the *Government Gazette* containing a copy of the same shall, without any other proof, be received as *prima facie* evidence of the existence thereof in all Courts and before all Justices and tribunals.

**65.** (1) If

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**65.** (1) If any person shall, after the coming into operation of this Act, establish or carry on, at any premises within the district of any local authority, the business of manufacturing or preparing for sale ice cream, or ginger beer, or hop beer, or any similar beer or soda water, lithia water, or other mineral water, or lemonade, or other aerated waters or cordials without first obtaining a licence from the local authority in whose district the premises are situated, he shall be liable to a penalty not exceeding Twenty Pounds.

(2) The local authority in whose district the premises are situated may fix the annual fee for such licence, not exceeding Two Pounds.

(3) Such local authority may refuse a licence if, upon the report of their inspector, they deem the premises unsuitable, or the applicant unfit to hold a licence.

**PART VI.**

Licence required for  
manufacture of ice  
cream and aerated  
waters.

Victoria Pure Food  
Act, No. 2010 of  
1905.

In the name and on behalf of His Majesty, I hereby assent to  
this Bill.

GEORGE R. LE HUNTE, Governor.

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## SCHEDULE.

## FORM OF CERTIFICATE.

I, the undersigned, being an analyst duly appointed under "The Food and Drugs Act, 1908," do hereby certify that I received, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, from \* \_\_\_\_\_, a sample of \_\_\_\_\_ sealed and marked † \_\_\_\_\_, and have analysed the same, and declare the result of my analysis to be as follows :—  
I am of opinion that † \_\_\_\_\_

*Observations. §*

As witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, an Analyst under "The Food and Drugs Act, 1908."

\* Here insert the name of the person delivering or consigning the sample.

† When the sample was received unsealed the word "sealed" should be struck out. If there were no marks on the sample or wrappings when received, the blank may be left unfilled or the words "and marked" struck out.

‡ Here the analyst may state whether the sample is genuine, or state the proportions of some or all of its ingredients, or the percentages of foreign ingredients (if any).

§ Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials render the article injurious to health or not.

In the case of a certificate regarding milk, butter, or any article liable to change, the analyst shall specially report any change which, in his opinion, had taken place in the constitution of the article that would interfere with the analysis.