

CUSTODY OF INFANTS.

[See *Marriage Act* 1915.]

DAIRYING COMPANIES.

[See *Companies Act* 1915.]

DAIRY SUPERVISION ACT 1915.

6 GEORGE V., An Act to consolidate the Law regulating the
No. 2639. Production and Sale of Milk and Dairy Produce
and for other purposes.

[6th September, 1915.]

*Milk and Dairy
Supervision Act*
1905.

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title and
commencement.

1. This Act may be cited as the *Dairy Supervision Act* 1915, and shall come into operation on the first day of October One thousand nine hundred and fifteen.

Repeal.
Schedule.

2. The Acts mentioned in the Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed. Provided that such repeal shall not affect any Order in Council proclamation regulation order or appointment made or any notification direction or notice given or any licence granted under the said repealed Acts or any of them before the commencement of this Act.

Application of
Act.
16 s. 2.

3. This Act except where in this Act otherwise expressly provided shall have effect—

- (a) as regards the Metropolitan Milk Area and the milk areas of Ballarat Bendigo Geelong Castlemaine and Port Fairy ;
- (b) as regards any other milk area on such day after the constitution thereof as is fixed by the Governor in Council ; and
- (c) as regards any municipal district outside any milk area on such date as such district at any time is proclaimed by the Governor in Council to be subject to the provisions of this Act ; and
- (d) as regards any municipal district outside any milk area on such date as such district on the written request of the Council thereof is proclaimed by the Governor in Council as a municipal district subject to the provisions of this Act.

1915, 1916

4. In the construction of this Act unless inconsistent with the context or subject-matter—

“Animal” means any animal of the kind to which any of the following belong, viz. :—Cow dog pig horse donkey goat or sheep.

*Milk and Dairy
Supervision Act
1905 s. 3.
Interpretation.*

“Authority” means—

(a) The Minister administering this Act in a milk area or in a municipal district declared to be subject to the Minister and not to the council thereof ;

(b) The council exercising and executing in a municipal district proclaimed to be subject to the provisions of this Act all the powers authorities and duties by this Act conferred on the Minister.

“Butter-fat” means the pure fat of milk.

“Council” means council of any municipal district including the city of Melbourne and the city of Geelong.

“Dairy” means any premises (not being a dairy farm or factory) where milk is kept for sale or where any dairy produce is prepared for sale.

“Dairy farm” means any premises where cows are milked or kept for the purpose of producing milk either for sale or for preparing any dairy produce for sale and includes the animals thereon.^(a)

“Dairy produce” means milk cream butter cheese concentrated or condensed milk, or cream or any article derived or prepared from milk or cream.

“Factory” means any premises (not being solely a dairy farm or dairy) where cream butter cheese or any dairy produce is prepared packed canned or manufactured for sale and includes creamery.

“Milk” includes any article purporting to be milk.

“Milk area” means any milk area constituted by or pursuant to this Act or any Act hereby repealed.

“Officer” includes inspector or supervisor.

“Owner” includes occupier or person in charge or apparently in charge owner’s agent or manager and in the case of a company the manager secretary or other controlling officer thereof.

“Package” means box case can crate tank basket tin cask keg barrel tub flask bottle jar dish drum capsule wrapper or covering of any material or description whatsoever.

“Prescribed” means prescribed by this Act or any regulation thereunder.

“Regulation” means regulation made in pursuance of this Act or any Act hereby repealed.

“To sell” includes to barter and also includes to offer or attempt to sell or receive for sale or have in possession for sale or expose for sale or send forward or deliver for sale or cause or suffer or allow to be sold offered or exposed for sale and refers only to selling for human consumption, and “sale” and “sold” have a corresponding meaning.

(a) To establish a charge involving the use of premises as a dairy farm there must be some evidence of habitual user for the purposes men-

tioned in this definition.—*Mohr v. Daly*, 1914 V.L.R., 439.

*Milk and Dairy
Supervision Act
1905.*

"Vehicle" includes every description of car cart carriage conveyance truck van waggon or boat including railway tramway or motor carriages cars or trucks.

*Operation of
Act.*

Ib. s. 4.

5. (1) In any milk area or municipal district in which this Act is in force the provisions of the *Health Act* 1915 having reference to dairies dairy farms dairy produce milk stores milk shops milk vessels dairy cattle or grazing grounds as such shall not to the extent to which they are inconsistent with this Act have any force or effect.

(2) Notwithstanding sub-section (1) of this section this Act shall not be taken to repeal supersede or limit the operation of any enactments providing for the sale of food in a pure and sound state, or the prevention of the sale of adulterated or unwholesome food or drink or (except in so far as this Act contains provision to the contrary) the operation of any other Act.

(3) This Act applies to persons in the public service of the Crown as well as to other persons.

Administration of Act.

*Minister of
Agriculture.*

Ib. s. 5.

*Effect of
extension of Act
to municipal
district.*

Ib. s. 6.

6. This Act shall be administered by the Minister of Agriculture.

7. (1) In any municipal district outside a milk area and which at the request of the council thereof has been proclaimed as a municipal district subject to the provisions of this Act—

(a) all powers authorities and duties by this Act conferred on the Minister shall if not inconsistent with the context be exercised and executed by the council thereof, and all necessary licences shall be issued by the said council;

(b) the council of such district shall subject to the approval of the Minister appoint and pay such supervisors as are necessary for carrying out therein the duties of supervisors under this Act; and

(c) two or more such councils may subject to the approval of the Minister appoint the same person as supervisor.

(2) No person shall be appointed by a council or councils as a supervisor unless he is qualified to be selected and appointed a supervisor by the Governor in Council.

(3) Every supervisor shall have and may exercise all the powers and authorities of a supervisor appointed by the Governor in Council and shall if so required by the Minister forward to him a copy of all or any reports made by him to the council of each municipal district in which he is a supervisor.

*Provision for
council being
superseded if
necessary.*

Ib. s. 7.

8. In the event at any time of the Minister being satisfied that the provisions of this Act are not being effectively administered by the council of a municipal district which on the request of such council has been proclaimed as a district subject to the provisions of this Act or if so requested in writing by the council thereof then the Governor in Council after the Minister has given at least three months' previous notice to such council may declare that such district shall so far as this Act is concerned be subject to the Minister and not to the council thereof, and thereupon the powers of the council under this Act and of any supervisors appointed by such council shall cease and the Minister shall administer the provisions of this Act in such district.

9. (1) The Governor in Council may appoint such inspectors super- *Milk and Dairy Supervision Act 1905 s. 8.*
visors officers and persons as are deemed necessary for the carrying out *Officers.*
of the provisions of this Act.

(2) One of such inspectors shall be a chief veterinary inspector. *Chief veterinary inspector.*
He shall be a person who is a registered veterinary surgeon and an expert in veterinary sanitary science and veterinary medicine.

(3) Another of such inspectors shall be a chief dairy inspector who *Chief dairy inspector.*
shall be an expert in the science and practice of dairying and allied branches of agriculture.

(4) Each inspector may be appointed by the Governor in Council *Nature of appointment.*
either under a specific contract with such inspector or subject to the provisions of the *Public Service Act 1915.*

(5) Subject to the Minister the inspectors shall control supervise *Control of supervisors.*
and direct the supervisors in carrying out their duties under this Act, and in addition every inspector shall have and may exercise all or any of the powers of a supervisor.

(6) The supervisors shall not be subject to the *Public Service Act 1915.* Each supervisor— *Conditions of appointment of supervisors.*
Is. s. 2.

(a) shall be appointed under a specific contract with him for one year but shall be eligible for re-appointment from time to time, and he may be at any time removed by the Governor in Council;

(b) shall satisfy the Authority that he has had sufficient *bond fide* practical experience in dairy-farming and its allied branches of agriculture and amongst animals.

(c) shall be selected after a written and practical examination by examiners appointed by the Governor in Council. In such examination special importance shall be attached to the practical part. In lieu of the written part of the examination the Governor in Council may accept any prescribed public examination;

(d) shall be paid a salary at a rate of not less than One hundred and fifty pounds per annum; and

(e) shall have a district assigned to him annually.

10. It shall be the duty of each supervisor— *Duties of supervisors.*
Is. s. 10.

(a) to become personally acquainted as far as possible with every owner of a dairy farm dairy or factory and the conditions of every dairy farm dairy and factory in his district;

(b) to confer with or advise such owner on matters connected with his farm animals premises utensils milk and dairy produce when requested to do so or when instructed to do so by the Authority;

(c) to inspect and examine all premises utensils and appurtenances and also all animals and their food and water supply and also all dairy produce at such dairy farm dairy or factory in such manner and by such means as may be prescribed;

*Milk and Dairy
Supervision Act
1905.*

- (d) to make such other inspection examination inquiry or investigation as is from time to time directed by the Authority; and
- (e) to report to the Authority the results of inspections in such form as the Authority may require or as may be prescribed.

Licensing of Owners of Dairy Farms Dairies and Factories.

Licensing.
Id. s. 11.

11. (1) It shall be necessary for the owner of a dairy farm dairy or factory to hold an annual licence for the same under this Act.

Licence fees.

- (2) The annual amount payable for such a licence shall be:—
- | | |
|---|------------------|
| for a dairy farm within a milk area such sum as may be prescribed but not exceeding | Sixpence per cow |
| for a dairy farm not within a milk area such sum as may be prescribed but not exceeding | Sixpence per cow |
| for a dairy or factory such sum as may be prescribed but not exceeding in each case | ... Two pounds |
| for each creamery attached to a factory such sum as may be prescribed but not exceeding | Five shillings |

*Milk and Dairy
Supervision Act
1912 s. 2.*

Provided that the amount payable for an annual licence for a dairy when all milk kept for sale at such dairy is milk from one cow only shall be Two shillings and sixpence.

Computation of
fee.

(3) In computing the number of cows to be paid for the fee shall be based on the average number of cows milked in seven consecutive days during the twelve months immediately preceding the application for the licence, and such seven days shall be the seven consecutive days during which the greatest number of cows were milked during the said twelve months.

(4) If the premises have not been so used as a dairy farm for a period of twelve months or if by reason of any alteration in the area so used or otherwise the number of cows cannot be computed as aforesaid the Authority shall fix the sum to be paid.

(5) In the event of any dispute the decision of the Authority shall be final.

Collection and
application of
fees where Act
administered by
municipalities.

(6) Where the provisions of this Act are administered by a council the fees shall be fixed and collected by the said council subject to the approval of the Minister and such fees shall be applied by such council towards the expenses of administering this Act.

Mode of
obtaining
licence.

*Milk and Dairy
Supervision Act
1905 s. 12*

12. (1) In every municipal district (whether within a milk area or not) in which the provisions of this Act are in force the owner of a dairy farm dairy or factory in such municipal district shall in the month of June in each year make application for a licence for the financial year commencing on the next ensuing first day of July.

(2) Within one month after the coming into force of this Act in any municipal district (whether within a milk area or not) or before commencing business in such district and thereafter in the month of June in each year the owner of a dairy farm dairy or factory in such municipal district shall make application for a licence for the period ending on the next ensuing thirtieth day of June or for the financial year commencing on the next ensuing first day of July (as the case may be).

*Milk and Dairy
Supervision Act
1905.*

(3) On making application for such a licence the owner shall pay the fee therefor to the municipal clerk or treasurer of such municipality or to a supervisor who shall give a receipt therefor, and such owner may set off as against the amount of such fee the amount or a proper proportion thereof paid by him to any municipal council as a dairy registration fee under the *Health Act 1915* or any Act thereby repealed in respect of the unexpired portion of the year for which such dairy registration fee was so paid by him.

(4) Where a licence is required for a period less than twelve months the full rate shall not be charged, but for each and every full month for which the licence is necessary there shall be paid one-twelfth part of the annual fee and for any time less than one month the Authority shall fix the fee to be paid.

(5) After a dairy farm dairy or factory has once been licensed under this Act or any Act hereby repealed a licence shall be issued for any succeeding year until the receipt of a report from the supervisor showing to the satisfaction of the Minister that the dairy farm dairy or factory to be licensed is not in a suitable and sanitary condition. As regards any milk area such report if not from shall be indorsed by an officer who is a registered veterinary surgeon.

(6) A licence issued in respect of a dairy farm dairy or factory may be transferred to any person who becomes by purchase or otherwise the owner of such dairy farm dairy or factory.

(7) Every licence and receipt shall be issued on prescribed forms.

(8) When a licence is refused the applicant shall have his fee refunded to him.

(9) Any owner who has applied for a licence and paid the fee therefor shall unless and until his fee is refunded to him be deemed to hold a licence.

13. (1) The owner of a dairy farm dairy or factory shall when so requested by a supervisor furnish such assistance by information or otherwise in regard to the dairy farm dairy or factory and all receptacles appliances or machinery used in the business as may be required for effectively carrying out the provisions of this Act. Every owner of a factory shall furnish monthly returns to the Minister setting forth the number of suppliers the total number of pounds of milk and cream purchased the quantity of butter manufactured and the total sum paid for the same.

*Owners to assist
in carrying out
of Act. Factories
to furnish
monthly returns
to Minister.
Id. s. 13.*

(2) The owner of a dairy or factory shall when requested furnish to such supervisor the name and address of any person supplying dairy produce to such dairy or factory.

Milk Areas.

*Milk and Dairy
Supervision Act
1905 s. 14.
Metropolitan
Milk Area.*

14. (1) The municipal districts of Brighton Brunswick Camberwell Caulfield Coburg Collingwood Essendon Fitzroy Footscray Hawthorn Kew Malvern Melbourne Northcote Oakleigh Port Melbourne Prahran Preston Richmond South Melbourne St. Kilda and Williamstown together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within any of such municipal districts shall constitute a milk area to be called the Metropolitan Milk Area.

*Ballarat Milk
Area.*

(2) The municipal districts of Ballarat and Ballarat East together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within any of such municipal districts shall constitute a milk area and be called the Ballarat Milk Area.

*Bendigo Milk
Area.*

(3) The municipal districts of Bendigo and Eaglehawk together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within any of such municipal districts shall constitute a milk area and be called the Bendigo Milk Area.

*Geelong Milk
Area.*

(4) The municipal districts of Geelong Geelong West and Newtown and Chilwell together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within any of such municipal districts shall constitute a milk area and be called the Geelong Milk Area.

*Castlemaine
Milk Area.*

(5) The municipal districts of Castlemaine and Chewton together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within any of such municipal districts shall constitute a milk area and be called the Castlemaine Milk Area.

*Port Fairy Milk
Area.*

(6) The municipal district of Port Fairy together with the whole of the premises of each and every dairy farm or dairy outside such municipal districts wherever situated from which milk is sold within such municipal district shall constitute a milk area and be called the Port Fairy Milk Area.

*Other milk
areas.
Ib. s. 15.*

15. On the recommendation of the Minister any portion of Victoria may be proclaimed a milk area by the Governor in Council, and the boundaries of any milk area may from time to time be altered extended or reduced by the Governor in Council.

*Model dairy
farm.
Ib. s. 16.*

16. There may be established and maintained by the State or by any Council in any milk area or municipal district a model dairy farm or dairy.

Supervision of Cows.

*Prohibition of
sale of milk
from and
branding of
diseased cows.
Ib. s. 17.*

17. (1) Any supervisor may prohibit for a period not exceeding two weeks the use of any cow for the production or preparation of any dairy produce for sale if such supervisor is of opinion that such dairy produce would be deleterious to health or unwholesome; and he may in such manner as may be prescribed brand such cow or cause such cow to be branded with a brand which is not of a permanent character.

(2) Any supervisor taking any action under sub-section (1) of this section shall at once notify the Authority of any such action taken by him. The Authority shall confirm or cancel or modify such prohibition, and may reduce or extend the period of such prohibition or make such prohibition permanent. The owner of any cow may appeal to the Minister against any such prohibition. *Milk and Dairy Supervision Act 1905.*

(3) When such prohibition is made permanent, the cow may be ordered to be branded in such permanent manner as prescribed, and the Authority shall notify the owner of his or its decision as to such permanent branding and such decision if it is that of the Minister shall be final and conclusive.

18. When a written notice furnished by the Minister or by a supervisor is forwarded to the owner of a dairy farm setting forth that the use of a cow for production or preparation of dairy produce for sale is prohibited as aforesaid either for a specified time or permanently such owner shall at once prevent the use of such cow for such purpose during such time or permanently (as the case may be), and no person shall use such cow for such purpose during such specified time or at any time (as the case may be). *Prevention of use of prohibited cow. Ib. s. 18.*

19. (1) Any supervisor may use any means which are prescribed for the purpose of ascertaining whether any cow is affected with any disease requiring any cow to be isolated or branded under this Act or is in such a condition as to be likely to yield unwholesome milk. *Power to ascertain if cows likely to yield unwholesome milk. Ib. s. 19.*

(2) No application of any method of diagnosis involving injection aspiration, harpooning or such like process shall be made under this section except by or under the direction of an officer who is a registered veterinary surgeon.

Notifiable Diseases of Animals.

20. The following shall be notifiable diseases of animals under this Act:— *Notifiable diseases under the Act. Ib. s. 20.*

Anthrax,
Black leg or symptomatic anthrax,
Contagious mammitis,
Contagious pleuro-pneumonia,
Contagious abortion,
Swine fever,
Tuberculosis,
Variola vaccinia, and
Any disease which may from time to time be proclaimed by the Governor in Council by order.

21. (1) When any animal at a dairy farm or dairy is affected with any notifiable disease the owner thereof shall immediately notify the fact in writing to a supervisor or a member of the police force and in the notice shall state— *Owner to notify diseases of animals on his farm. Ib. s. 21.*

(a) his name and address,
(b) the address of the dairy farm or dairy where such disease exists,

*Milk and Dairy
Supervision Act
1906.*

(c) the kind of animals and number of animals affected with such disease,

(d) the name of such disease, and

(e) any action that has been taken in pursuance of the provisions of this Act with regard to every such diseased animal.

Such supervisor or member of the police force shall at once transmit such writing or written notice thereof to the Authority.

*When isolation
necessary.*

(2) Such owner shall at once isolate any and every such diseased animal and shall unless otherwise prescribed keep any and every such animal isolated while such disease continues or as long as there is reason to think in the case of any cow so affected that there is danger of the milk of such cow being infective or contaminated or deteriorated as a result of such condition having existed.

"Isolate."

The word "isolate" means the keeping of an animal in a separate enclosure in such a manner as to prevent actual contact of such animal with any cow being used for production of milk or cream for sale or with any animal having contact with such cow.

*Veterinary
surgeon to
notify Authority
of occurrence of
disease.*

(3) Every registered veterinary surgeon or other person treating animals for disease upon it coming to his knowledge in the course of his practice that any animal is suffering from or is affected by any notifiable disease shall at once notify the Authority of such occurrence.

Notification fee.

(4) A fee of Five shillings shall be paid by the Authority to such owner or veterinary surgeon for such notification if the Authority is satisfied that the report is correct. Only one such fee shall be paid in respect to any single outbreak of such disease.

Restrictions as to Persons Employed in Dairying.

*Owner to
report when any
member of his
household or
employee
affected with
contagious or
infectious
disease.
7b. s. 22.*

22. (1) When any person residing or employed at a dairy farm dairy or factory is affected with any contagious or infectious disease or any disease or condition which may be proclaimed by the Governor in Council, the owner of such dairy farm dairy or factory shall immediately on such occurrence coming to his knowledge forward a written report of such person being so affected to the clerk of the municipal district and to a supervisor or to a member of the police force and such clerk supervisor or member of the police force shall forthwith transmit such report or written notice of such report to the Minister. Immediately on receiving notice of any such report the Minister shall forthwith cause notification of the fact of such receipt to be posted or given to the Secretary to the Board of Public Health.

(2) In such report the owner shall specify the name and address of such person the name of the disease or condition and any prescribed particulars.

(3) Such owner shall immediately prevent such affected person from milking feeding attending handling or otherwise coming in contact with any cow producing milk for sale and from entering any room containing any dairy produce for sale and from touching or handling dairy produce milk utensils or milk for sale at such dairy farm or dairy or factory.

23. (1) No person—

- (a) who is affected with any contagious or infectious disease or disease or condition proclaimed as aforesaid or who has within the previous twelve hours been in contact with any person so affected or who is affected with eruptions or ulcerations or discharging wounds of the skin of the face hands or arms; or
- (b) who has within the previous twelve hours been engaged in handling any animal or carcass affected with any notifiable disease under this Act and has not taken the prescribed precautions for disinfection; or
- (c) who is employed in connexion with night-soil or any other substance declared to be noxious for the purposes of this section by the Governor in Council,

*Milk and Dairy
Supervision Act
1905 c. 23.*

No diseased
person to
handle &c
milk.

shall milk any cow used for the production of milk for sale or shall touch or handle dairy produce milk utensils or milk for sale or shall enter a room containing milk for sale unless authorized by a written certificate from a medical practitioner or from the Authority or a supervisor.

(2) No person shall sell any dairy produce or milk in regard to which any person affected or employed as described in this section has in any way contravened this section or any dairy produce or milk that has been stored in any room that has been entered in contravention thereof.

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Supervision of Dairy Farms Dairies and Factories.

24. Subject to this Act any supervisor may at all reasonable times—

*Powers of
supervision.
Ib. s. 24.*

- (a) enter inspect and examine any dairy farm dairy or factory and inspect and examine all animals dairy produce and utensils thereat or therein; or
- (b) take samples of such dairy produce or of water or fodder supplied to animals or of any materials used in connexion with the preparation of any dairy produce; or
- (c) open at any dairy farm dairy factory or at any railway or tramway station or premises or in any vehicle any package which contains or is suspected to contain any dairy produce and take samples of the same. For such samples reasonable remuneration shall be offered. Such samples may be forwarded to the Authority for examination and report by such expert or other person as the Authority may direct.

25. If after inspection and after complying with section thirty-nine of this Act any supervisor is satisfied that—

*When dairy
unclean &c.
Ib. s. 25.*

- (a) any dairy farm dairy or factory or vehicle is in an unclean or unwholesome condition; or
- (b) any utensil machinery apparatus or work at any dairy farm dairy or factory is in an unclean or unwholesome condition; or

*Milk and Dairy
Supervision Act
1905.*

- (c) any animal at a dairy farm is affected with a notifiable disease; or
- (d) any person is affected with disease so that any dairy produce is likely to be contaminated; or
- (e) the water used in connexion with a dairy farm dairy or factory is unwholesome,

he may by writing under his hand addressed to the owner of the dairy farm dairy factory or vehicle or to the consignor of the dairy produce (as the case may be) without further name or description—

- (f) order such dairy farm dairy factory or vehicle and all such utensils machinery apparatus or works (as the case may be) to be forthwith cleansed disinfected and rendered wholesome to his satisfaction;
- (g) order the supply of water to be discontinued and a supply of wholesome water to be used;
- (h) order the removal or isolation of any person affected with disease of a contagious or infectious nature likely to contaminate dairy produce, provided that the supervisor shall first obtain the certificate of the health officer of the district in which the premises are situated or of some legally qualified medical practitioner that the disease with which such person is affected is a contagious or infectious disease or a disease or condition proclaimed as aforesaid under this Act;
- (i) forbid the removal from a dairy farm dairy or factory of any dairy produce or any utensils for such time as he thinks necessary; or
- (j) with respect to animals exercise all or any of the powers conferred upon him by this Act.

*Seizure of
dairy produce.
Ib. s. 26.*

26. (1) If any supervisor is satisfied that—

- (a) any dairy produce inspected by him is unfit for human food; or
- (b) is being or has been removed, sold or delivered contrary to this Act,

he shall seize the same.

*Storage of
seized produce.*

(2) Any dairy produce which has been seized under this section shall be forthwith placed in a cool chamber if such is available and kept therein at as low a temperature as practicable pending the decision of any legal or other proceedings.

*Supervisor's
orders to be
reported.*

(3) The supervisor shall as soon as practicable make a report to the Authority of all seizures or orders made by him under this Act.

*Construction of
new or altered
dairy buildings.
Ib. s. 27.*

27. (1) Where any dairy farm dairy or factory is newly established or constructed or is intended to be established or constructed or where the buildings and premises at a dairy farm dairy or factory are being altered or extended, such buildings and premises shall be constructed altered or extended (as the case may be) in accordance with such requirements as may be prescribed.

(2) So far as regards any dairy farm dairy or factory the Authority may from time to time give notice to the owner thereof to take or cause means to be taken (within a time specified in such

notice) for the better construction and drainage of the buildings and premises and for the proper disposal of all drainage from such dairy farm dairy or factory. *Milk and Dairy Supervision Act 1905.*

(3) In this section the words "buildings and premises" include dairy milk room separator room factory cow yards bailing up yards cow sheds and milking sheds.

28. (1) Where in pursuance of the last preceding section of this Act any expense is incurred by any person being tenant of any landlord such expense as between such landlord and tenant shall in the absence of any agreement expressly negating the provisions of this section be payable in the proportions following:—

Provisions as to payment of expenses.
ib. s. 28.

- (a) In case the interest of such tenant at the time such expense is incurred be less than for a term of five years the whole expense shall be payable by such landlord;
- (b) In case the interest of such tenant at the time such expense is incurred be for a term of five years and less than for a term of eight years three-fourths of such expense shall be payable by such landlord and one-fourth of such expense by such tenant;
- (c) In case the interest of such tenant at the time such expense is incurred be for a term of eight years and less than for a term of twelve years half of such expense shall be payable by such landlord and half by such tenant;
- (d) In case the interest of such tenant at the time such expense is incurred be for a term of twelve years or upwards the whole of such expense shall be payable by such tenant.
- (e) Provided that any tenant whose unexpired interest is less than twelve years who shall commence the business of dairying without first obtaining the consent in writing of his landlord shall bear the whole expense.

(2) If any such landlord or such tenant pays more than his proper proportion of such expense he may recover the excess from his tenant or landlord (as the case may be) as money paid to his use and any tenant may set off any sum recoverable by him under this section against any rent payable to his landlord.

29. (1) Where under this Act notice has been served on a tenant to provide for the better construction and drainage of buildings and premises or to provide for the proper disposal of drainage or to make any addition or improvement thereto or thereof such tenant shall forthwith deliver or cause to be delivered a copy of the said notice to the landlord of the premises or his agent and such landlord may within thirty days from the receipt by himself or his agent of such copy notify to the tenant his intention to comply with such notice, and if in that event such landlord fails to effect such additions or improvements as are specified in the said notice he shall be liable to the penalties provided in this Act for failing to comply with such notice to the same extent and in the same manner as if he were the occupier.

Where notice served on tenant to provide a proper yard &c. such tenant to inform landlord who may effect the improvements.
ib. s. 29.

(2) If such landlord so elects to comply with such notice he shall be at liberty with or without horses carts material workmen and others to enter such leased property and to effect the necessary additions or improvements.

*Milk and Dairy
Supervision Act
1905*

(3) In any proceedings under this Act against any tenant the production of the notification by his landlord of his intention to comply with the notice shall be a bar to such proceedings.

(4) If such tenant does not deliver or cause to be delivered a copy of the notice aforesaid to the landlord such tenant shall forfeit any right of contribution he may have under this Act against such landlord.

(5) A copy of this section shall be printed upon the notice served on a tenant as aforesaid otherwise such notice shall be null and void.

*Appeal from
orders of
supervisors.
Ib. s. 30.*

30. Any person who feels aggrieved by any order or decision of a supervisor under this Act other than in relation to diseases of animals may on giving to such supervisor the prescribed notice in writing of his intention so to do within seven days appeal therefrom to a court of petty sessions which is hereby empowered to hear such appeal and to confirm or annul such order or decision and to make such order as to costs as it thinks fit.

*Prohibition by
Governor in
Council of the
keeping grazing
or milking cows.
Ib. s. 31.*

31.^(a) The Governor in Council may as regards any milk area on the recommendation of the Minister or as regards any municipal district whether wholly or partly within a milk area or not on the application of the council of such district if approved by the Minister—

- (a) prohibit any person keeping grazing or milking cows on any part or parts or in any part of such area or district; and
- (b) determine the distance from any house or from any establishment where there is carried on any trade business or occupation specified in section two hundred and eighty-six of the *Health Act* 1915 within which no cow shall be housed or kept and no milking carried on; and
- (c) prohibit any person keeping for the production of milk for sale any cow that is either habitually depastured on or has unrestricted access to any street.

This section shall have operation in every part of Victoria.

*Sale or supply
of seized or
unsound dairy
produce.
Ib. s. 32.*

32. Except as herein otherwise provided no person shall sell store or keep for sale—

- (a) any dairy produce seized by a supervisor;
- (b) any dairy produce which is unfit for the food of man;
- (c) any dairy produce which has been drawn or derived from a cow that is known to or suspected by such person to be diseased or that has been isolated in pursuance of this Act;
- (d) any dairy produce from any dairy farm on which any animal required by this Act to be isolated is not isolated;
- (e) as milk anything which is not the normal product without addition or subtraction of the healthy udder of an animal unless it is sold or supplied on a butter-fat test;
- (f) as milk anything which is not pure milk unless it is sold or supplied as separated milk with the full knowledge and consent of the person to whom such milk is sold or supplied;

(a) See note to section 44.

- (g) any butter which is or purports to be factory butter and which contains less than a prescribed percentage of butter-fat or more than a prescribed percentage of water provided that in no case shall the proportion of butter-fat be less than eighty per centum nor the proportion of water be more than fifteen per centum. Milk and Dairy Supervision Act 1905.
- (h) except as prescribed, any article under the names "skimmed milk" "boiled milk" "sterilized milk" "pasteurized milk" "frozen milk" "thawed milk" "humanized milk" "condensed milk" "concentrated milk" "dried milk" "desiccated milk" "milk powder" or under any designation purporting that the same is milk or cream that has been treated in any way ; or
- (i) except as prescribed, any milk to which anything foreign has been added.

33. All milk or cream purchased by or for a factory or by or for any person for the purpose of being manufactured into butter or cheese shall be purchased on the basis of its butter-fat contents as determined by the Babcock or some equivalent test approved by the Minister and with such other conditions as may be prescribed, and account sales of such purchase shall be rendered to the vendor and shall set forth the number of pounds of butter-fat contained in such milk or cream for which payment is being made. Any vendor of milk or cream shall have the right to have his milk or cream tested in his presence at the factory not oftener than once a week. This section shall have operation in every part of Victoria. Butter-fat contents of milk or cream. Ib. s. 33.

Regulations.

34. (1) The Governor in Council may make regulations which may vary in their application according to time and place for all or any of the following purposes :— Power to make regulations. Ib. s. 34.

Prescribing in connexion with dairy farms dairies and factories the particulars to be set out in the form of application for licence the methods by which fees shall be paid and the conditions under which animals may be kept and the requirements in accordance with which buildings shall be constructed altered or extended ;

Prescribing the mode in which animals affected with a notifiable disease shall be isolated and in which such animals and the products and discharges of such animals shall be dealt with and the conditions and restrictions under which any milk from such animals may be sold or used or disposed of ;

Prescribing the means that may be used for diagnosis and discovery of disease in animals and the manner in which the branding (either temporarily or permanently) of cows as provided for in this Act shall be effected and the methods by which identification of the ownership of dairy produce shall be established ;

Prescribing the conditions under which and length of period after removal from the animal beyond which milk may not be sold ;

*Milk and Dairy
Supervision
Act 1905.*

Prescribing on the recommendation of the Food Standards Committee under the *Health Act* 1915 as regards milk for direct human consumption—

- (a) composition,
- (b) physical condition including degree of freedom from foreign matter,
- (c) acidity,
- (d) specific gravity,
- (e) bacterial content and mould growth,

with any excess or diminution of which such articles may not be sold ;

Prescribing the conditions under which milk which has been cooled aerated skimmed heated boiled sterilized centrifuged pasteurized frozen condensed concentrated desiccated dried or otherwise treated may be sold and the conditions under which beastings or any product prepared from beastings may be sold ;

Prescribing the measures to be taken from time to time and after the occurrence of any ailment of any animal or person at dairy farms dairies or factories for maintaining cleanliness and wholesomeness of and for disinfecting dairy farms dairies and factories and dwellings occupied by the owner and by persons employed at dairy farms dairies or factories ;

Prescribing the means to be adopted for the prevention of alteration infection contamination and deterioration or any of these changes of any specified dairy produce and of growth of bacteria and other organisms in milk and for the removal of contaminating materials and for the cleaning of vessels appliances machinery and vehicles used at dairy farms dairies and factories ;

Prescribing the methods by which dairy produce that has been seized may be treated destroyed or disposed of ;

Prescribing the standards size and measurements of all apparatus used for measuring and testing any specified dairy produce, and of the chemicals which may be used for testing any specified dairy produce ;

Prescribing the conditions under which sanitary and sleeping accommodation should be provided for any assistant employed and boarded on a dairy farm dairy or factory within a milk area ;

and generally for carrying into effect the object and intention of this Act.

(2) All such regulations when made by the Governor in Council shall be published in the *Government Gazette* and when so published shall have the force of law and shall be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the same have been made if Parliament is then sitting and if not then within ten days after the next meeting of Parliament and a copy of any proposed regulations shall be posted to each Member of Parliament at least twenty-eight days before such regulations are approved by the Governor in Council.

Miscellaneous.

35. In any prosecution or other legal proceeding under the provisions of this Act instituted by or under the direction of the Authority or by any inspector supervisor or officer or by any member of the police force no proof shall be required—

Milk and Dairy Supervision Act 1905 s. 35.
Simplification of proof in certain cases.

- (a) of any order to prosecute or of the particular or general appointment of any such inspector supervisor or officer or of such member of the police force ; or
- (b) of the authority of any inspector supervisor or officer or any member of the police force to prosecute.

36. In the event of any cow or cows being isolated condemned or otherwise dealt with under this Act by a supervisor so as to prevent the supply or sale of milk from such cow or cows the owner thereof if he has entered into any contract or agreement for the sale or delivery of milk shall be held indemnified from the payment of any damages claimed for the non-delivery of milk so far as such cow or cows are concerned.

Effect on contracts of isolation &c.
Ib. s. 36.

37. (1) On receiving satisfactory security the Minister is hereby authorized out of any moneys available for the purpose to advance to any occupier or owner of a dairy farm dairy or factory a sum not exceeding Twenty pounds on condition that the sum shall be expended by the borrower on the better construction and drainage of buildings and premises or the carrying out of the requirements under section three hundred and thirty-five of the *Health Act 1915* as may be required under the provisions of this Act.

Advances for better construction and drainage.
Ib. s. 37.

(2) Every such advance shall be repaid to the Minister in equal yearly or half-yearly instalments as may be agreed upon, and shall be wholly repaid within a period not exceeding five years and shall bear interest at the rate of Four and a half pounds per centum per annum.

38. Where pursuant to any provisions of this Act an officer has seized any dairy produce such officer shall forthwith give notice in writing of such seizure to the owner or consignor thereof if his name and address are attached to any such dairy produce and if such address is in Victoria, otherwise such notice shall be given to the importer or consignee of such dairy produce or his agent.

Notice of seizure to owner consignor &c.
Ib. s. 38.

39. In the case of a sample of any dairy produce or water or fodder having been taken or seized by any officer in accordance with any provisions of this Act such officer shall forthwith deliver or forward a portion marked and sealed or fastened up in such a manner as its nature will permit to the owner or consignor thereof if his name and address are attached to such dairy produce or water or fodder or any package or vessel covering or enclosing the same and if such address is in Victoria, otherwise such portion shall be delivered or forwarded to the importer or consignee of such dairy produce or water or fodder or his agent.

Portion of sample to be sent to owner consignor or consignee.
Ib. s. 39.
See 62 & 63
Vict. c. 51 s. 10.

40. Any inspector supervisor or officer or any member of the police force may prosecute for any breach of or offence against this Act or any regulation or order made thereunder. No fee shall be

Power of officers to prosecute.
Ib. s. 40.

*Milk and Dairy
Supervision Act
1905.*

payable on the issue or service of any summons or warrant of distress on the complaint of any such inspector supervisor or officer or member for the purpose of enforcing any of the provisions of this Act.

*Liability of
occupier or
agent.
Ib. s. 41.*

41. (1) If the person appearing to be the owner of any land is absent from Victoria or cannot after reasonable inquiries be found any occupier or any agent or person advertising or notifying himself by placard or otherwise as authorized to deal with such land in any way shall for the purposes of any legal proceedings under the provisions of this Act be deemed to be such owner.

(2) Such occupier agent or person may recover from such owner any penalty in which he has been convicted or any expenses to which he has been put or any sums of money or costs which he has expended in and about such lands pursuant to the provisions of this Act whether under the compulsion of legal process or not. Any occupier may set off any sum recoverable by him under the provisions of this Act against any rent due or which may become due in respect to such land.

(3) Nothing herein shall exclude or take away any other methods of proof.

*Service of
notice.
Ib. s. 42.*

42. (1) Any notice or order under this Act may be wholly or partly in printing or in writing or both.

(2) Where under this Act any notice or order is required to be given to the owner or occupier of any house building or land such notice or order addressed to the owner or occupier thereof as the case may require may be served on the occupier of such house building or land or left with some inmate of his abode who is apparently at least sixteen years old or may be posted by registered letter addressed to such owner or occupier or if there is no occupier may be put up on some conspicuous part of such house building or land.

(3) It shall not be necessary in any such order or notice to name the occupier or the owner of such house building or land.

*Continued
operation of
orders and
notices.
Ib. s. 43.*

43. All notices or orders required under this Act to be served on any occupier or owner shall if due service thereof has been once made on any occupier or owner be binding on all persons claiming by from or under such occupier or owner and on all subsequent occupiers or owners to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

*Offences.
Ib. s. 44.*

44. (1) Every person shall be guilty of an offence against this Act who—

(a) furnishes any certificate report or account sales which such person is empowered or required by this Act to furnish and which is or are not to the best of his knowledge and belief true and correct in all particulars; or

(b) replies falsely to any officer in reply to inquiries which such officer deems it necessary to make in carrying out the provisions of this Act or refuses to render reasonable assistance required of him under this Act; or

- (c) removes from a dairy farm any animal for the purpose of preventing examination of such animal by an officer as required by this Act or who fails to produce or submit for examination as required by this Act any animal intended for the production of any dairy produce for sale; or
- (d) without permission of an inspector or supervisor removes from any dairy farm any animal that is required under this Act to be isolated or that is branded in pursuance of this Act; or
- (e) in constructing altering or extending buildings or premises or in carrying out the provisions of section three hundred and thirty-five of the *Health Act 1915* at any dairy farm dairy or factory fails after reasonable notice to comply with any regulation; or
- (f) fails to comply with any notice or order made pursuant to this Act by the Authority or any inspector supervisor or officer; or
- (g) does not hold a licence although required by this Act to hold a licence;^(a) or
- (h) is guilty of a contravention of any of the provisions of this Act or of any Order in Council or regulation thereunder for which a penalty is not expressly provided.

(2) Every person who is guilty of an offence against this Act shall be liable to a penalty of not more than Five pounds for a first offence and not more than Fifty pounds for any subsequent offence.

45. In every case where any person is charged with selling any dairy produce contrary to the provisions of this Act or of any regulations made thereunder the onus of proof that such dairy produce was not exposed for sale or that any dairy produce was not sold for human consumption shall be on the defendant.

46. (1) Where the owner of a dairy farm dairy or factory is charged with an offence against any of the provisions of this Act he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the hearing of the charge; and if after the commission of the offence has been proved the owner proves to the satisfaction of the court—

- (a) that he had used due diligence to enforce the execution of this Act; and
- (b) that the said other person had committed the offence in question without his knowledge consent or connivance the said other person shall be summarily convicted of such offence and the said owner shall be exempt from any penalty. The person so convicted shall in the discretion of the court be also liable to pay any costs incidental to the proceedings.

(a) *Semble*, the offence of not holding a licence cannot arise in respect of premises situated within an area which is the subject of prohibition under section 31.—*Mohr v. Daly*, 1914 V.L.R., 439.

*Milk and Dairy
Supervision Act
1905.*

(2) Where it is made to appear to the satisfaction of the inspector supervisor or other officer or any member of the police force at the time of discovering an offence—

- (a) that the owner has used all due diligence to enforce the execution of this Act ; and
- (b) by what person the offence has been committed ; and
- (c) that it has been committed without the knowledge consent or connivance of the said owner and in contravention of his orders,

the said inspector supervisor or officer or member of the police force shall proceed against the person whom he believes to be the actual offender without first proceeding against the said owner.

Section 2.

SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
2011	<i>Milk and Dairy Supervision Act 1905</i> ...	The whole.
2402	<i>Milk and Dairy Supervision Act 1912</i> ...	The whole.

DECLARATIONS AND AFFIDAVITS.

[See *Evidence Act 1915.*]

DENTISTS.

[See *Medical Act 1915.*]