CHAPTER 51.

An Act to amend the Law relating to the sale of Food and Drugs. [9th August 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Precautions against importation of agricultural and other produce insufficiently marked.

1.—(1.) If there is imported into the United Kingdom any of the following articles, namely:—

(*a*) margarine or margarine-cheese, except in packages conspicuously marked "Margarine" or "Margarine-cheese," as the case may require; or

(*b*) adulterated or impoverished butter (other than margarine) or adulterated or impoverished milk or cream, except in packages or cans conspicuously marked with a name or description indicating that the butter or milk or cream has been so treated; or

(*c*) condensed separated or skimmed milk, except in tins or other receptacles which bear a label whereon the words "Machine-skimmed Milk" or "Skimmed Milk," as the case may require, are printed in large and legible type; or

(*d*) any adulterated or impoverished article of food to which Her Majesty may by Order in Council direct that this section shall be applied, unless the same be imported in packages or receptacles conspicuously marked with a name or description indicating that the article has been so treated;

the importer shall be liable, on summary conviction, for the first offence to a fine not exceeding twenty pounds, for the second offence to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred pounds.

(2.) The word "importer" shall include any person who, whether as owner, consignor, or consignee, agent, or broker, is in possession of, or in anywise entitled to the custody or control of, the article; prosecutions for offences under this section shall be undertaken by the Commissioners of Customs; and subject to the provisions of this Act this section shall have effect as if it were part of the Customs Consolidation Act, 1876. 39 & 40 Vict. c. 36.

(3.) The Commissioners of Customs shall, in accordance with directions given by the Treasury after consultation with the Board of Agriculture, take such samples of consignments of imported articles of food as may be necessary for the enforcement of the foregoing provisions of this section.

(4.) Where the Commissioners of Customs take a sample of any consignment in pursuance of such directions they shall divide it into not less than three parts, and send one part to the importer and one part to the principal chemist of the Government laboratories, and retain one part.

(5.) In any proceeding under this section the certificate of the principal chemist of the result of the analysis shall be sufficient

evidence of the facts therein stated, unless the defendant require that the person who made the analysis be called as a witness.

(6.) If, in any case, the Commissioners of Customs are of opinion that an offence against this section has been committed, they shall communicate to the Board of Agriculture for their information the name of the importer and such other facts as they possess or may obtain as to the destination of the consignment.

(7.) For the purposes of this section an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance, or if any part of it has been abstracted so as in either case to affect injuriously its quality, substance, or nature.

Provided that an article of food shall not be deemed to be adulterated by reason only of the addition of any preservative or colouring matter of such a nature and in such quantity as not to render the article injurious to health.

Power for Local Government Board or Board of Agriculture to sample articles of food.

2.—(1.) The Local Government Board may, in relation to any matter appearing to that Board to affect the general interest of the consumer, and the Board of Agriculture may, in relation to any matter appearing to that Board to affect the general interests of agriculture in the United Kingdom, direct an officer of the Board to procure for analysis samples of any article of food, and thereupon the officer shall have all the powers of procuring samples conferred by the Sale of Food and Drugs Acts, and those Acts shall apply as if the officer were an officer authorised to procure samples under the Sale of Food and Drugs Act, 1875, except that—

(*a*) the officer procuring the sample shall divide the same into four parts, and shall deal with three of such parts in the manner directed by section fourteen of the Sale of Food and Drugs Act, 1875, as amended by this Act, and shall send the fourth part to the Board, and

(*b*) the fee for analysis shall be payable to the analyst by the local authority of the place where the sample is procured.

(2.) The Board shall communicate the result of the analysis of any such sample to the local authority, and thereupon there shall be the like duty and power on the part of the local authority to cause proceedings to be taken as if the local authority had caused the analysis to be made.

Power for Local Government Board or Board of Agriculture to act in default of local authority.

3.—(1.) It shall be the duty of every local authority entrusted with the execution of the laws relating to the sale of food and drugs to appoint a public analyst, and put in force from time to time, as occasion may arise, the powers with which they are invested, so as to provide proper securities for the sale of food and drugs in a pure and genuine condition, and in particular to direct their officers to take samples for analysis.

(2.) If the Local Government Board or Board of Agriculture, after communication with a local authority, are of opinion that the local authority have failed to execute or enforce any of the provisions of the Sale of Food and Drugs Acts in relation to any article of food, and that their failure affects the general interest of the consumer or the general interest of agriculture in the United

Kingdom, as the case may be, the Board concerned 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 mentioned in the order.

(3.) The expenses incurred by the Board or their officer under any such order shall be treated as expenses incurred by the local authority in the execution of the said Acts, 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 with costs from the local authority.

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

(5.) Any public analyst appointed under the Sale of Food and Drugs Acts shall furnish such proof of competency as may from time to time be required by regulation framed by the Local Government Board.

Power for Board of Agriculture to make regulations as to analysis of milk, cream, butter, or cheese.

4.—(1.) The Board of Agriculture may, after such inquiry as they deem necessary, make regulations for determining what deficiency in any of the normal constituents of genuine milk, cream, butter, or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk (including condensed milk), cream, butter, or cheese, shall for the purposes of the Sale of Food and Drugs Acts raise a presumption, until the contrary is proved, that the milk, cream, butter, or cheese is not genuine or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of an analysis under those Acts.

(2.) Any regulations made under this section shall be notified in the London and Edinburgh Gazettes, and shall also be made known in such other manner as the Board of Agriculture may direct.

Extension of Margarine Act, 1887, to margarine-cheese. 50 & 51 Vict. c. 29.

5. The provisions of the Margarine Act, 1887, as amended by this Act, shall extend to margarine-cheese, and shall apply accordingly, with the substitution of "margarine-cheese" and "cheese" for "margarine" and "butter," and provided that all margarine-cheese sold or dealt in otherwise than by retail shall either be inclosed in packages marked in accordance with the Margarine Act, 1887, as amended by this Act, or be itself conspicuously branded with the words "margarine-cheese."

Marking of margarine and margarine-cheese.

6.—(1.) Where under this Act or the Margarine Act, 1887, it is required that any package containing margarine or margarine-cheese shall be branded or marked, the brand or mark shall be on the package itself and not solely on a label, ticket, or other thing attached thereto.

(2.) The letters required to be printed on the paper wrapper in which margarine or margarine-cheese is sold shall be capital block letters not less than half an inch long and distinctly legible, and no other printed matter shall appear on the wrapper.

(3.) The words "or with" in section six of the Margarine Act, 1887, shall be repealed.

Provisions as to manufacturers of and dealers in margarine and margarine-cheese.

7.—(1.) Every occupier of a manufactory of margarine or margarine-cheese, and every wholesale dealer in such substances, shall keep a register showing the quantity and destination of each consignment of such substances sent out from his manufactory or place of business, and this register shall be open to the inspection of any officer of the Board of Agriculture.

(2.) Any officer of the Board of Agriculture shall have power to enter at all reasonable times any manufactory of margarine or margarine-cheese, and to inspect any process of manufacture therein, and to take samples for analysis.

(3.) If any such occupier or dealer—

(*a*) fails to keep such a register, or

(*b*) refuses to produce the register when required to do so by an officer of the Board of Agriculture, or

(*c*) fails to keep the register posted up to date, or

(*d*) wilfully makes any entry in the register which is false in any particular, or

(*e*) fraudulently omits to enter any particular which ought to be entered in the register,

he shall be liable on summary conviction for the first offence to a fine not exceeding ten pounds, and for any subsequent offence to a fine not exceeding fifty pounds.

50 & 51 Vict. c. 29.

(4.) The provisions of section nine of the Margarine Act, 1887, relating to registration of manufactories shall extend to any premises wherein the business of a wholesale dealer in margarine or margarine-cheese is carried on.

(5.) The registration of a manufactory or other premises shall be forthwith notified by the local authority to the Board of Agriculture.

Restriction on amount of butter fat in margarine.

8. It shall be unlawful to manufacture, sell, expose for sale, or import any margarine, the fat of which contains more than ten per cent. of butter fat, and every person who manufactures, sells, exposes for sale, or imports any margarine which contains more than that percentage, shall be guilty of an offence under the Margarine Act, 1887, and any defence which would be a defence under section seven of that Act shall be a defence under this section, and the provisions of the former section shall apply accordingly.

Provided that nothing in this section shall apply to any margarine manufactured or imported in fulfilment of any contract made before the twentieth day of July one thousand eight hundred and ninety-nine.

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

9. Every person who, himself or by his servant, in any highway or place of public resort sells milk or cream from a vehicle or from a can or other receptacle shall have conspicuously inscribed on the vehicle or receptacle his name and address, and in default shall be liable on summary conviction to a fine not exceeding two pounds.

10. In the case of a sample taken of milk in course of delivery, or of margarine or margarine-cheese forwarded by a public conveyance, the person taking the sample shall forward by registered parcel or otherwise 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 containing the article sampled. Division of samples taken in course of delivery or transit.

11. Every tin or other receptacle containing condensed separated or skimmed milk must bear a label clearly visible to the purchaser on which the words "Machine-skimmed Milk," or "Skimmed Milk," as the case may require, are printed in large and legible type, and if any person sells or exposes or offers for sale condensed separated or skimmed milk in contravention of this section he shall be liable on summary conviction to a fine not exceeding ten pounds. Provisions as to condensed separated or skimmed milk.

12. The label referred to in section eight of the Sale of Food and Drugs Act, 1875, shall not be deemed to be distinctly and legibly written or printed within the meaning of that section unless it is so written or printed that the notice of mixture given by the label is not obscured by other matter on the label: Provided that nothing in this enactment shall hinder or affect the use of any registered trade mark, or of any label which has been continuously in use for at least seven years before the commencement of this Act; but the Comptroller-General of Patents, Designs, and Trade Marks shall not register any trade mark purporting to describe a mixture unless it complies with the requirements of this enactment. Notice of mixtures. 38 & 39 Vict. c. 63.

13. In section fourteen of the Sale of Food and Drugs Act, 1875, the words "offer to" and the words "proceed accordingly and shall" shall be repealed. Amendment of 38 & 39 Vict. c. 63. as to samples.

14. The provisions of section three and section four of the Sale of Food and Drugs Act Amendment Act, 1879 (relating to the taking of samples of milk in course of delivery), shall apply to every other article of food: Provided that no samples shall be taken under this section except upon the request or with the consent of the purchaser or consignee. Taking samples in course of delivery. 42 & 43 Vict. c. 30.

15. In section sixteen of the Sale of Food and Drugs Act, 1875, the words "registered parcel" shall be substituted for the words "registered letter." Amendment of 38 & 39 Vict. c. 63. as to registered parcels.

16. Any person who wilfully obstructs or impedes any inspector or other officer in the course of his duties under the Sale of Food and Drugs Acts, 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 those Acts, shall be liable, on summary conviction, for the first offence to a fine not exceeding twenty pounds, for the second offence to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred pounds. Obstruction of officer in discharge of his duties.

17.—(1.) Where, under any provision of the Sale of Food and Drugs Act, 1875, a person guilty of an offence is liable to a fine Penalties for offences under the

Sale of Food and Drugs Acts.

which may extend to twenty pounds as a maximum, he shall be liable for a second offence under the same provision to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred pounds.

(2.) Where, under any provision of the Sale of Food and Drugs Acts, a person guilty of an offence is liable to a fine exceeding fifty pounds, 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 labour, for a period not exceeding three months.

Articles sold in tins or packets. 38 & 39 Vict. c. 63.

18. Notwithstanding anything in section seventeen of the Sale of Food and Drugs Act, 1875, where any article of food or drug is exposed for sale in an unopened tin or packet duly labelled, no person shall be required to sell it except in the unopened tin or packet in which it is contained.

Time for proceeding and regulation as to summons.

19.—(1.) When any article of food or drug has been purchased from any person for test purposes, any prosecution under the Sale of Food and Drugs Acts in respect of the sale thereof, notwithstanding anything contained in section twenty of the Sale of Food and Drugs Act, 1875, shall not be instituted after the expiration of twenty-eight days from the time of the purchase.

(2.) In any prosecution under the Sale of Food and Drugs Acts the summons shall state particulars of the offence or offences alleged, and also the name of the prosecutor, and 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.

Provisions as to use of warranty or invoice as defence, and proceedings against the warrantor.

20.—(1.) A warranty or invoice shall not be available as a defence to any proceeding under the Sale of Food and Drugs Acts unless the defendant has, within seven days after service of the summons, sent to the purchaser a copy of such warranty or invoice with a written notice stating that he intends to rely on the warranty or invoice, 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.

(2.) The person by whom such warranty or invoice 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 or invoice given by a person resident outside the United Kingdom shall not be available as a defence to any proceeding under the Sale of Food and Drugs Acts, unless the defendant proves that he had taken reasonable steps to ascertain and did in fact believe in the accuracy of the statement contained in the warranty or invoice.

(4.) Where the defendant is a servant of the person who purchased the article under a warranty or invoice he shall, subject to the provisions of this section, be entitled to rely on section

twenty-five of the Sale of Food and Drugs Act, 1875, and section seven of the Margarine Act, 1887, 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. 38 & 39 Vict. c. 67. 50 & 51 Vict. c. 29.

(5.) Where the defendant in a prosecution under the Sale of Food and Drugs Acts has been discharged under the provisions of section twenty-five of the Sale of Food and Drugs Act, 1875, as amended by this Act, any proceedings under the Sale of Food and Drugs Acts 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, for the first offence, to a fine not exceeding twenty pounds, for the second offence to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred 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.

Duty of court to send article for analysis. 38 & 39 Vict. c. 63.

21. The justices or court referred to in section twenty-two of the Sale of Food and Drugs Act, 1875, shall on the request of either party under that section cause an article of food or drug to be sent to the Commissioners of Inland Revenue for analysis, and may, if they think fit, do so without any such request.

Provisions as to certificates of analysis.

22.—(1.) At the hearing of the information in any proceeding under the Sale of Food and Drugs Acts, the production by the defendant of a certificate of analysis by a public analyst in the form prescribed in section eighteen of the Sale of Food and Drugs Act, 1875, shall be sufficient evidence of the facts therein stated, unless the prosecutor requires that the analyst be called as a witness.

(2.) A copy of every such certificate shall be sent to the prosecutor 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 may seem proper.

Transfer of powers from Secretary for Scotland to Local Government Board.

23. This Act shall apply to Scotland with the substitution for "the Local Government Board" of "the Local Government Board for Scotland," and all powers and duties vested in or imposed on the Secretary for Scotland in relation to the Sale of Food and Drugs Acts shall be transferred to, vested in, or imposed on the Local Government Board for Scotland.

Application to Ireland.

24. This Act shall apply to Ireland with the substitution for "the Board of Agriculture" of "the Department of Agriculture

and Technical Instruction for Ireland," and for "the Local Government Board" of "the Local Government Board for Ireland," and for "the London and Edinburgh Gazettes" of "the Dublin Gazette."

Interpretation of terms.

25. In this Act, unless the context otherwise requires—

The expression "margarine-cheese" means any substance, whether compound or otherwise, which is prepared in imitation of cheese, and which contains fat not derived from milk:

The expression "cheese" means the substance usually known as cheese, containing no fat derived otherwise than from milk:

The expression "local authority" means any local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Acts, and the expression "public analyst" means an analyst so appointed:

Other expressions have the same meaning as in the Sale of Food and Drugs Acts, and an offence under this Act shall be treated as an offence under those Acts.

Definition of "food."

26. For the purposes of the Sale of Food and Drugs Acts the expression "food" shall include every 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 also include flavouring matters and condiments.

Repeal of enactments in schedule.

27. The enactments in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

Short title and commencement. 38 & 39 Vict. c. 63. 42 & 43 Vict. c. 30. 50 & 51 Vict. c. 29.

28.—(1.) This Act may be cited as the Sale of Food and Drugs Act, 1899, and the Sale of Food and Drugs Act, 1875, and the Sale of Food and Drugs Act Amendment Act, 1879, and the Margarine Act, 1887, and this Act may be cited collectively as the Sale of Food and Drugs Acts, 1875 to 1899, and are in this Act referred to as the Sale of Food and Drugs Acts.

(2.) This Act shall come into operation on the first day of January one thousand nine hundred.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict. c. 63.	The Sale of Food and Drugs Act, 1875.	In section two, the definition of the term "food." In section fourteen, the words "offer "to," and the words "proceed "accordingly and shall." Section fifteen. In section twenty-seven, the words from "Every person who shall "give a false warranty in "writing" to "a penalty not "exceeding twenty pounds."
42 & 43 Vict. c. 30.	The Sale of Food and Drugs Act Amendment Act, 1879	Section ten.
50 & 51 Vict. c. 29.	The Margarine Act, 1887.	In section six, the words "or with," and the words "not less than a "quarter of an inch square."
54 & 55 Vict. c. 46.	The Post Office Act, 1891.	Section eleven.