CHAPTER 63

Rag Flock and Other Filling Materials Act, 1951

ARRANGEMENT OF SECTIONS

Premises where filling materials are used

Section
1. Upholstering, etc., to be done on registered premises.
2. Registration of premises.
3. Offences as respects unclean filling materials.

Rag flock

4. Rag flock for filling to be manufactured and kept at licensed premises.
5. Sale of rag flock not from source demanded.
6. Licensing of premises for manufacturing rag flock.
7. Licensing of premises for storing rag flock.

Power to extend provisions as to rag flock to other materials

8. Power to extend provisions as to rag flock to other materials.

Records to be kept on registered and licensed premises

9. Records to be kept on registered and licensed premises.

Selling of articles containing unclean materials

10. Selling of articles containing unclean materials.
11. Savings for existing stocks.

Enforcement

12. Duty of local authorities to enforce this Act.
13. Powers of entry and inspection.
14. Powers of sampling.
15. Right to have samples tested.
16. Exercise of powers outside local authority's area.
17. Obstruction of execution of this Act.

Legal Proceedings

18. Penalties.
19. Offences by corporations.
20. Power of forfeiture.
21. Prosecutions.
22. Defence available in certain circumstances where some other person is responsible.
23. Conditions under which warranty may be used in defence.
24. Evidence of certificates of testing.
25. Power of court to require testing by Government Chemist.
26. Misuse of warranty or certificate of testing.

Miscellaneous

27. Extension of validity of licence pending an appeal.
28. Protection for officers of local authority acting in the execution of their duty.
29. Registers and lists of licence holders to be open to inspection.

Section
30. Regulations.
31. Service of notices.
32. Expenses of local authorities.

Filling materials within this Act and meaning of "clean"

33. Filling materials to which this Act applies.
34. Meaning of "clean".

Interpretation, repeals, etc.

35. Interpretation.
36. Application to Scotland.
37. Repeals.
38. Short title, commencement and extent.

SCHEDULE.—Taking of samples from filling materials in articles.

An Act to secure the use of clean filling materials in upholstered articles and other articles which are stuffed or lined, and for purposes connected therewith.

[1st August 1951.]

BE it enacted by the King'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:—

Premises where filling materials are used

Upholstering, etc., to be done on registered premises.

1.—(1) Subject to the provisions of this section, it shall be unlawful in the course of a business to use filling materials to which this Act applies in any activity specified in subsection (2) of this section, except on premises registered by a local authority.

(2) The activities referred to in the foregoing subsection are any form of upholstering and, without prejudice to the generality of that expression, the stuffing or lining of bedding, toys, baby carriages and of articles of such other kinds as may be prescribed:

Provided that there shall not be included among those activities—

(*a*) the remaking or reconditioning of any article; or

(*b*) any upholstering in connection with the building or making or fitting out of railway carriages, road vehicles, ships or aircraft or upholstering of such other kinds as may be prescribed.

(3) A person who uses any unregistered premises in contravention of this section shall be guilty of an offence.

Registration of premises.

2.—(1) A local authority shall, on the application of the occupier of, or of a person proposing to occupy, any premises within their area, and on payment to the local authority of a registration fee of one pound, register those premises for the purposes of this Act.

(2) Upon any change in the occupation of premises registered under this section, the incoming occupier shall, if he intends to put them to a use which will necessitate their registration under this section, forthwith give notice of the change to the authority, who shall thereupon make any necessary alteration in their register.

If a person required to give a notice under this subsection fails to do so, he shall be liable on summary conviction to a fine not exceeding five pounds.

(3) If at any time premises registered under this Act are no longer being put to a use necessitating their registration, the local authority may strike the relevant entry out of their register, but this shall be without prejudice to the right to make a further application under this section for registering the premises again.

Offences as respects unclean filling materials.

3.—(1) If on any premises registered under this Act there are filling materials to which this Act applies which are not clean, the occupier of the premises shall be guilty of an offence, unless he proves—

(*a*) in the case of materials in an article, that the article is a second-hand one belonging to some other person and brought on to the premises to be reconditioned or remade; and

(*b*) in the case of materials not in an article, that they were brought on to the premises in such an article as aforesaid.

(2) If any person sells, on the demand of a purchaser for filling materials to which this Act applies which are clean within the meaning of this Act, any filling materials to which this Act applies which are not clean, he shall be guilty of an offence.

(3) In any proceedings under subsection (1) or subsection (2) of this section it shall be a defence for the defendant to prove—

(*a*) that he purchased the filling materials alleged not to be clean as being clean within the meaning of this Act and with a written warranty to that effect; and

(*b*) that he had no reason to believe at the time of the alleged offence that the filling materials were not clean; and

(*c*) that the filling materials were then in the same state as when he purchased them.

(4) Where the defendant is a servant or agent of the person who purchased the material under a warranty, he shall be entitled to rely on the provisions of the last foregoing subsection in the same way as his employer or principal would have been entitled to do if he had been the defendant.

Rag flock

Rag flock for filling to be manufactured and kept at licensed premises.

4.—(1) No rag flock shall be delivered to premises registered under this Act except from premises licensed under this Act for manufacturing rag flock or from premises licensed under this Act as a rag flock store.

(2) If any rag flock is delivered in contravention of this section the occupier of the premises to which it is delivered shall be guilty of an offence.

(3) In any proceedings under subsection (2) of this section and in any proceedings under subsection (1) of the last foregoing section in respect of rag flock, it shall be a defence for the defendant to prove—

(*a*) that he purchased the rag flock to which the proceedings relate as coming from premises licensed under this Act and with a written warranty to that effect; and

(*b*) that he had no reason to believe at the time of the alleged offence that the rag flock came from some other place; and

(*c*) in the case of proceedings under subsection (1) of the last foregoing section, that at the time of the alleged offence the rag flock was in the same state as when he purchased it.

Sale of rag flock not from source demanded.

5. If any person sells, on the demand of a purchaser for rag flock coming from premises licensed under this Act, rag flock not coming from premises licensed under this Act, he shall be guilty of an offence.

Licensing of premises for manufacturing rag flock.

6.—(1) A local authority on receiving from the occupier of, or a person proposing to occupy, any premises within their area an application for the grant or renewal of a licence authorising him to manufacture rag flock on those premises for use on premises registered under this Act and a fee of one pound, may grant or renew to him a licence in respect of those premises.

(2) The local authority shall not grant a licence under this section, otherwise than by way of renewal of an existing licence, until an officer of the authority has inspected the premises named in the application and has made a report thereon.

(3) The local authority shall not refuse to grant or renew a licence under this section except where—

(*a*) the premises are not furnished with such appliances as appear to the authority to be necessary to enable clean rag flock to be manufactured, or

(*b*) the premises are only part of a building and it appears to the authority that any business carried on in the remainder of the building on premises not licensed or registered under this Act involves or may involve the use or keeping or manufacture of rag flock.

(4) If a local authority refuse to grant or renew a licence under this section, they shall forthwith give notice to the applicant of their decision in the matter, and shall, if so required by him within fourteen days of service on him of notice of their decision, give to him within forty-eight hours a statement of the grounds on which it was based.

(5) A person aggrieved by the refusal of a local authority to grant or renew a licence under this section may within twenty-eight days of service on him of notice of their decision appeal, in England or Wales, to the Minister of Local Government and Planning and, in Scotland, to the Secretary of State.

(6) On any appeal under the last foregoing subsection—

(*a*) the opinion of the local authority as to any matter mentioned in paragraph (*a*) or paragraph (*b*) of subsection (3) of this section shall not be conclusive;

(*b*) the appellant shall be entitled, if he so desires, to be heard by himself or by counsel or a solicitor or other representative, as he may elect, before a person appointed for the purpose by the Minister to whom he is appealing;

(*c*) if the appellant exercises his right to a hearing under the last foregoing paragraph the local authority concerned shall also be entitled to be heard by such representative as they may elect and either party or their representative may call witnesses and cross-examine the witnesses of the other party.

(7) A licence under this section shall remain in force for such period not exceeding twelve months as may be fixed by the local authority, but may from time to time be renewed by them for a period not exceeding twelve months at any one time.

(8) If on premises licensed under this section there is rag flock which is not clean, the occupier of the premises shall be guilty of an offence.

Licensing of premises for storing rag flock.

7.—(1) A local authority on receiving from the occupier of, or a person proposing to occupy, any premises within their area an application for the grant or renewal of a licence authorising him to store rag flock on those premises for use on premises registered under this Act and a fee of one pound, may grant or renew to him a licence in respect of those premises.

(2) The local authority shall not grant a licence under this section, otherwise than by way of renewal of an existing licence, until an officer of the authority has inspected the premises named in the application and has made a report thereon.

(3) The local authority shall not refuse to grant or renew a licence under this section except where the premises are only part of a building and it appears to the authority that any business carried on in the remainder of the building on premises not licensed or registered under this Act involves or may involve the use or keeping or manufacture of rag flock.

(4) If a local authority refuse to grant or renew a licence under this section, they shall forthwith give notice to the applicant of their decision in the matter, and shall, if so required by him within fourteen days of service on him of notice of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

(5) A person aggrieved by the refusal of a local authority to grant or renew a licence under this section may within twenty-eight days of service on him of notice of their decision appeal, in England or Wales, to the Minister of Local Government and Planning and, in Scotland, to the Secretary of State.

(6) On any appeal under the last foregoing subsection—

(*a*) the opinion of the local authority as to any matter mentioned in subsection (3) of this section shall not be conclusive;

(*b*) the appellant shall be entitled, if he so desires, to be heard by himself or by counsel or a solicitor or other representative, as he may elect, before a person appointed for the purpose by the Minister to whom he is appealing;

(*c*) if the appellant exercises his right to a hearing under the last foregoing paragraph the local authority concerned shall also be entitled to be heard by such representative as they may elect and either party or their representative may call witnesses and cross-examine the witnesses of the other party.

(7) A licence under this section shall remain in force for such period not exceeding twelve months as may be fixed by the local authority, but may from time to time be renewed by them for a period not exceeding twelve months at any one time.

(8) If on premises licensed under this section there is rag flock which is not clean, the occupier of the premises shall be guilty of an offence.

(9) In any proceedings under the last foregoing subsection it shall be a defence for the defendant to prove—

(*a*) that he purchased the rag flock to which the proceedings relate as coming from premises licensed under this Act or as being clean within the meaning of this Act and, in either case, with a written warranty to that effect; and

(*b*) that he had no reason to believe at the time of the alleged offence that the rag flock came from some other place or, as the case may be, that it was not clean; and

(*c*) that, in either case, at the time of the alleged offence the rag flock was in the same state as when he purchased it.

Power to extend provisions as to rag flock to other materials

Power to extend provisions as to rag flock to other materials.

8.—(1) The Minister of Local Government and Planning and the Secretary of State acting jointly may by statutory instrument make regulations for extending any provisions of this Act relating to rag flock so as to apply to any other kind of filling materials to which this Act applies.

(2) Regulations under this section may provide for the adaptation of any provision of this Act as so extended and may contain transitional provisions.

(3) A statutory instrument containing regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Records to be kept on registered and licensed premises

Records to be kept on registered and licensed premises.

9.—(1) The occupier of any premises registered under this Act shall keep records of all filling materials to which this Act applies consigned to the premises, and of all second-hand articles containing filling materials to which this Act applies consigned to or from the premises.

(2) The occupier of any premises licensed for the manufacture of rag flock shall keep records of all rag flock consigned from those premises.

(3) The occupier of premises licensed under this Act as a store for the keeping of rag flock shall keep records of all rag flock consigned to or from the premises.

(4) Records shall be kept under this section in the prescribed form and in the prescribed manner and shall include the prescribed information as to the nature and quantity of the materials or articles consigned, the persons from or to whom they were consigned, the places from or to which they were consigned and the dates of receipt at or despatch from the premises.

(5) If the foregoing provisions of this section are contravened as respects any premises, the occupier of the premises shall be guilty of an offence.

(6) If any person with intent to deceive makes, or causes or allows to be made, in a record kept under this section an entry which is to his knowledge false in any material particular, or wilfully omits or causes or allows to be omitted from a record kept under this section an entry required to be made therein, he shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds or to both.

Selling of articles containing unclean materials

Selling of articles containing unclean materials.

10.—(1) Subject to the provisions of this and the next following section, if any person has in his possession for the purpose of sale, or offers or exposes for sale, or sells, any article which—

(*a*) is upholstered or otherwise lined or stuffed with filling materials to which this Act applies which are not clean, and

(*b*) is of a kind which ought to be upholstered or stuffed or lined on premises registered under this Act,

he shall be guilty of an offence.

(2) Nothing in subsection (1) of this section shall make it an offence for a person to have in his possession for the purpose of sale, or offer or expose for sale, or sell, any second-hand article.

(3) Nothing in subsection (1) of this section shall render liable any auctioneer acting in the course of his business on behalf of another or any person acting as the servant of an auctioneer in the course of his business but this subsection shall be without prejudice to the liability of any person on whose behalf the auctioneer was acting.

(4) In any proceedings under this section it shall be a defence for the defendant to prove—

(*a*) that he purchased the article to which the proceedings relate as one which contained no filling materials to which this Act applies which were not clean within the meaning of this Act and with a written warranty to that effect; and

(*b*) that he had no reason to believe at the time of the alleged offence that any filling materials to which this Act applies in the article were not clean; and

(*c*) that the article at the time of the alleged offence was in the same state as when he purchased it.

(5) In any proceedings under this section it shall be a defence for the defendant to prove—

(*a*) that the filling materials alleged not to be clean were put into the article on premises occupied by him and registered under this Act and were purchased by him as being clean within the meaning of this Act or, in the case of rag flock, as coming from premises licensed under this Act and, in either case, with a written warranty to that effect; and

(*b*) that he had no reason to believe at the time of the alleged offence that the materials were not clean, or, as the case may be, that the rag flock came from some other place; and

(*c*) that, in any case, those materials were when put in the article in the same state as when he purchased them.

(6) Where the defendant is a servant or agent of the person who purchased the article or materials under a warranty, he shall be entitled to rely on the provisions of either of the two last foregoing subsections in the same way as his employer or principal would have been entitled to do if he had been the defendant.

(7) References in this section to a sale or to selling shall include references to hiring under a contract of hire purchase within the meaning of the Hire-Purchase Act, 1938.

In the application of this subsection to Scotland, for the reference to a contract of hire purchase within the meaning of the Hire-Purchase Act, 1938, there shall be substituted a reference to a contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies, or would apply if the limitation as to value contained in section one of that Act were omitted.

Saving for existing stocks.

11.—(1) In any proceedings under the last foregoing section where the filling materials to which the proceedings relate are not rag flock, it shall be a defence for the defendant to prove that those filling materials were not put into the article after the commencement of this Act.

(2) Regulations prescribing additional kinds of articles for the purposes of section one of this Act may apply the foregoing subsection with any necessary modifications to articles of those kinds.

Enforcement

Duty of local authorities to enforce this Act.

12.—(1) It shall be the duty of every local authority within their area to carry into execution and enforce this Act with a view to securing the use of clean filling materials.

(2) It shall, in particular, be the duty of a local authority to secure the inspection of premises within their area registered or licensed under this Act as often as may appear to them to be necessary for the proper enforcement of this Act.

(3) Nothing in this section shall be construed as authorising a local authority in Scotland to institute proceedings for an offence against this Act.

Powers of entry and inspection.

13.—(1) An authorised officer of a local authority shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable times to enter—

(*a*) any premises registered or licensed under this Act;

(*b*) any premises where he has reasonable grounds for believing that filling materials to which this Act applies or articles upholstered or otherwise stuffed or lined with filling materials to which this Act applies are held for sale or offered or exposed for sale;

(*c*) any premises which he has reasonable grounds for believing ought to be registered under this Act;

(*d*) any premises where he has reasonable grounds for believing that rag flock is being manufactured or kept with a view to its use, or sale for use, on premises which are or ought to be registered under this Act;

and may inspect the premises and any such materials or articles as aforesaid found therein.

(2) Where application is made for the grant or renewal of a licence under this Act, an authorised officer of the local authority shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable times to enter both the premises in respect of which the application is made and any other premises in the same building (except premises used as a private dwelling) with a view to ascertaining whether the licence ought to be granted.

(3) An authorised officer entering premises under subsection (1) of this section—

(*a*) where the premises are registered or licensed under this Act, may require the occupier or the person in charge of the premises to produce the records kept for the premises in accordance with section nine of this Act;

(*b*) where the premises are not registered or licensed under this Act or where a requirement under the foregoing paragraph is not complied with, may require any person carrying on any business on the premises or employed in connection therewith to produce any books, accounts or records relating to the business and to furnish any information relating to any such materials or articles as aforesaid on the premises.

(4) An authorised officer may make copies of, or extracts from, any document produced to him under this section.

(5) Where an authorised officer finds on any premises entered under subsection (1) of this section any filling materials or articles in respect of which he has grounds for believing that an offence has been committed under this Act, he may require the occupier of the premises to keep them on the premises and to take such steps as appear to the officer to be necessary to secure that they shall not be moved or tampered with by any person:

Provided that the occupier shall not be required to keep them for more than one month, except where within one month of the requirement being made summary proceedings have been instituted in respect of them, and then not after those proceedings have been finally disposed of.

(6) No information which has been obtained under or by virtue of this section shall be disclosed without the consent of the person for the time being carrying on the trade or business to which it relates except in connection with the execution of this Act or for the purposes of any proceedings pursuant thereto or any report of such proceedings, and any person who discloses any information in contravention of this subsection shall be guilty of an offence.

Powers of sampling.

14.—(1) An authorised officer of a local authority finding on any premises entered under this Act any materials appearing to him to be filling materials to which this Act applies or any article appearing to him to contain or be likely to contain filling materials to which this Act applies may take samples.

The Schedule to this Act shall have effect where under this subsection samples are taken from the filling materials in any article.

(2) Where an officer takes samples under the foregoing subsection, he shall observe the following procedure, that is to say, he shall divide the sample into three parts, each part to be marked, and sealed or fastened up, in such manner as its nature will permit, and shall—

(*a*) if required so to do, deliver one part to the occupier of the premises or the person for the time being in charge of the premises;

(*b*) retain one part for future comparison; and

(*c*) if he thinks fit, submit one part for testing whether the filling materials are clean.

Right to have samples tested.

15.—(1) If an authorised officer of a local authority considers that a sample should be tested, he shall submit it to be tested by a prescribed analyst or, where there is no prescribed analyst, by the public analyst for the area in which the sample was procured.

(2) A person may submit a sample of filling materials to which this Act applies to a prescribed analyst or, where there is no prescribed analyst, to the public analyst for the area where the person resides or carries on business.

(3) The analyst shall test as soon as practicable any sample sent to him in pursuance of this section, and give to the person by whom it was submitted a certificate in the prescribed form specifying the result of the test.

(4) It shall be the duty of the Ministers making regulations prescribing analysts for the purposes of this Act to secure that, except where a public analyst is prescribed, any person so prescribed has first given his consent and has a right to withdraw his consent after reasonable notice.

(5) The said Ministers acting jointly may by statutory instrument make regulations providing for the cases in which a fee may be charged for a test under this section and for the amount of the fee and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Exercise of powers outside local authority's area.

16. If it appears to an authorised officer of a local authority that in connection with the execution of this Act in the area of that authority it is expedient so to do, he may exercise any of the powers conferred on him by this Act within the area of any other local authority so long as the consent (which may be either general or limited to the particular occasion) of that other authority has been first obtained.

Obstruction of execution of this Act.

17.—(1) A person who wilfully obstructs any person acting in the execution of this Act shall be liable to a fine not exceeding five pounds:

Provided that, if the court is satisfied that he committed the offence with intent to prevent the discovery of some other offence under this Act, or if he has within the twelve months last preceding been convicted of an offence under this subsection, he shall be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding one month.

(2) A person who fails to give to any person acting in the execution of this Act any assistance which that person may reasonably request him to give or any information which that person is expressly authorised by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding five pounds:

Provided that nothing in this subsection shall be construed as requiring a person to answer any question or give any information, if to do so might incriminate him.

Legal Proceedings

Penalties.

18. A person guilty of an offence under this Act shall, unless a special penalty for that offence is provided by this Act, be liable—

(*a*) in the case of a first offence, to a fine not exceeding fifty pounds;

(*b*) in the case of a second or subsequent offence, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both.

Offences by corporations.

19. Where any offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this section, the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

Power of forfeiture.

20. Where a person is convicted under this Act in respect of any materials or article owned by him, the court may, in addition to any penalty imposed by them, order that the materials or article shall be forfeited and, upon any such order, notwithstanding anything in paragraph (5) of section thirty-nine of the Summary Jurisdiction Act, 1879, the materials or article shall be forfeited to the local authority for the area where the offence was committed to be disposed of by them in such manner as they think fit.

Prosecutions.

21.—(1) All offences under this Act may be prosecuted under the Summary Jurisdiction Acts.

(2) In any proceedings under this Act in respect of filling materials from which a sample has been taken, the day on which the summons is returnable shall be not less than fourteen days from the day on which it is served, and a copy of any certificate of testing obtained on behalf of the prosecutor shall be served with the summons.

(3) In any proceedings under this Act in respect of filling materials from which a sample has been taken under section fourteen of this Act, the part of the sample retained by the person who procured it shall be produced at the hearing.

Defence available in certain circumstances where some other person is responsible.

22.—(1) A person against whom proceedings are brought under this Act shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person, to whose act or default he alleges that the contravention of the provisions in question was due, brought before the court in the proceedings, and, if after the contravention has been proved the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the foregoing subsection—

(*a*) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the authority concerned that an offence has been committed in respect of which proceedings might be taken under this Act against some person and the authority are reasonably satisfied that the offence of which the complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

(4) In Scotland the foregoing subsections shall not apply but—

(*a*) where a contravention of any provision of this Act for which any person is liable to a fine under this Act was due to an act or default of any other person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been inflicted on the first-mentioned person if he had been convicted of the contravention; and

(*b*) where a person who is charged with a contravention of any provision of this Act proves to the satisfaction of the court that he has used all due diligence to secure that the provision in question was complied with and that the contravention was due to the act or default of some other person, the first-mentioned person shall be acquitted of the contravention.

Conditions under which warranty may be used in defence.

23.—(1) A warranty shall only be a defence to proceedings under this Act if—

(*a*) the defendant has within seven days of the service of the summons sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it 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 that person;

(*b*) in the case of a warranty given by a person resident outside the United Kingdom, the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(2) The person by whom the 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.

Evidence of certificates of testing.

24.—(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of a public or prescribed analyst in the prescribed form, or of a document supplied to him by or on behalf of the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated therein unless, in the first mentioned case, the other party requires that the analyst shall be called as a witness.

(2) In any proceedings under this Act, if a defendant intends to produce a certificate of a public or prescribed analyst, or under subsection (1) of this section to require that the public or prescribed analyst shall be called as a witness, notice of his intention together, in the first mentioned case, with a copy of the certificate shall be given to the other party at least three clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it deems proper.

Power of court to require testing by Government Chemist.

25.—(1) The court before which any proceedings are taken under this Act may, if it thinks fit, and upon the request of either party shall, cause the part of any sample produced before the court under subsection (3) of section twenty-one of this Act to

be sent to the Government Chemist, who shall make a test, and transmit to the court a certificate of the result thereof, and the costs of the test shall be paid by the prosecutor or the defendant as the court may order.

(2) If, in a case where an appeal is brought, no action has been taken under the foregoing subsection, the provisions thereof shall apply also in relation to the court by which the appeal is heard.

Misuse of warranty or certificate of testing.

26. A defendant who in any proceedings under this Act wilfully applies to any filling materials or article a warranty or certificate of testing given in relation to any other filling materials or article shall be guilty of an offence.

Miscellaneous

Extension of validity of licence pending an appeal.

27. Notwithstanding the refusal of a local authority to renew a licence under this Act, the licence shall remain in force for all the purposes of this Act until the time for appealing against the refusal has expired and, if an appeal is lodged, until the appeal is finally disposed of.

Protection for officers of local authority acting in the execution of their duty.

28.—(1) An officer of a local authority shall not be personally liable in respect of any act done by him in the execution or purported execution of this Act and within the scope of his employment, if he did that act in the honest belief that his duty under this Act required or entitled him to do it:

Provided that nothing in this subsection shall be construed as relieving a local authority from any liability in respect of acts of their officers.

(2) Where an action has been brought against an officer of a local authority in respect of an act done by him in the execution or purported execution of this Act and the circumstances are such that he is not legally entitled to require the authority to indemnify him, the authority may, nevertheless, indemnify him against the whole or a part of any damages and costs which he may have been ordered to pay or may have incurred, if they are satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under this Act required or entitled him to do it.

Registers and lists of licence holders to be open to inspection.

29. Any person may in the usual hours of business inspect any register of premises or list of licence holders kept by a local authority for the purposes of this Act.

Regulations.

30. The Minister of Local Government and Planning and the Secretary of State acting jointly may by statutory instrument make regulations for prescribing anything which is to be prescribed under this Act and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Service of notices.

31. Any notice or other document which is required or authorised by this Act to be given to or served on any person may be given or served either—

(*a*) by delivering it to that person ; or

(*b*) by leaving it, or sending it in a prepaid letter addressed to him, at his usual or last known residence ; or

(*c*) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office.

Expenses of local authorities.

32. There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the moneys to be so provided under Part I or Part II of the Local Government Act, 1948.

Filling materials within this Act and meaning of "clean"

Filling materials to which this Act applies.

33. The filling materials to which this Act applies are—

(*a*) rag flock,

(*b*) unwoven cotton, cotton linters, cotton millpuffs, cotton felt, cotton flock,

(*c*) unwoven wool, woollen felt, woollen flock,

(*d*) jute,

(*e*) unwoven synthetic fibres, synthetic fibre flock,

(*f*) hair,

(*g*) feathers or down,

(*h*) kapok,

(*i*) coir fibre, Algerian fibre, Mexican fibre, sisal,

(*j*) seaweed, seagrass, Spanish moss,

(*k*) straw or chaff,

(*l*) such other materials as may be prescribed.

Meaning of "clean".

34. Where standards of cleanliness have been prescribed for any kind of filling materials to which this Act applies, filling materials of that kind shall be treated for the purposes of this Act as clean if, and only if, they comply with the prescribed standards.

Interpretation, repeals, etc.

Interpretation.

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

"authorised officer of a local authority" means an officer authorised by the local authority in writing, either generally or specially, to act in matters of any specified kind or in any specified matter, except that the medical officer of health and sanitary inspector of the local

authority shall by virtue of their appointments be deemed to be authorised officers of that local authority for all the purposes of this Act;

"local authority" means, except as respects the administrative county of London, the council of a borough or urban or rural district, and as respects any area in the administrative county of London, the sanitary authority for that area for the purposes of the Public Health (London) Act, 1936;

"prescribed" means prescribed by regulations;

"public analyst" means public analyst for the purposes of the Food and Drugs Act, 1938, including a deputy public analyst appointed under subsection (6) of section sixty-six of that Act and acting during any vacancy in the office of public analyst or during the absence or incapacity of the holder of that office;

"rag flock" means flock which has been produced wholly or partly by tearing up spun or woven or knitted or felted materials, whether old or new, but does not include flock obtained wholly in the processes of the scouring, milling or finishing of newly woven or newly knitted or newly felted fabrics.

Application to Scotland.

36.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

(2) The expression "defendant" means accused; references to a summons shall be construed as references to a complaint; and for references to the day on which a summons is served and to the day on which it is returnable there shall be respectively substituted references to the day on which a complaint is served and to the day on which the prosecution thereon proceeds to trial.

(3) The expression "local authority" means a county or town council; and the expression "public analyst" means public analyst appointed under section fifteen of the Food and Drugs (Adulteration) Act, 1928.

Repeals.

37. The Rag Flock Acts, 1911 and 1928, and section one hundred and thirty-six of the Public Health (London) Act, 1936, are hereby repealed.

Short title, commencement and extent.

38.—(1) This Act may be cited as the Rag Flock and Other Filling Materials Act, 1951.

(2) This Act shall come into operation at the expiration of a period of three months beginning with its passing.

(3) This Act shall not extend to Northern Ireland.

SCHEDULE

TAKING OF SAMPLES FROM FILLING MATERIALS IN ARTICLES Section 14.

1. For the purpose of taking samples from any article in pursuance of the powers conferred on him by this Act, an authorised officer of a local authority may open up any covering or do any other thing necessary to get access to the filling materials.

2. After taking any steps under the foregoing paragraph, the authorised officer shall make such arrangements as appear to him to be reasonable for repairing the article or for a payment by the local authority to the owner of the article for having the article repaired.

3. Unless some person is convicted under this Act on the ground that the article is not clean, the local authority shall pay to the owner of the article a sum representing the diminution (if any) in value of the article consequent on the exercise of the powers conferred by this Act.

4. Any dispute as to whether any and if so what sum is due under the last foregoing paragraph of this Schedule shall be referred to and determined by the county court, or, in Scotland, the sheriff.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Summary Jurisdiction Act, 1879 ...	42 & 43 Vict. c. 49.
Food and Drugs (Adulteration) Act, 1928	18 & 19 Geo. 5. c. 31.
Hire Purchase and Small Debt (Scotland) Act, 1932.	22 & 23 Geo. 5. c. 38.
Public Health (London) Act, 1936 ...	26 Geo. 5. & 1 Edw. 8. c. 50.
Hire-Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
Food and Drugs Act, 1938	1 & 2 Geo. 6. c. 56.
Local Government Act, 1948	11 & 12 Geo. 6. c. 26.