

Queensland



PROFITEERING PREVENTION ACT 1948

**Reprinted as in force on 24 September 2002
(includes amendments up to Act No. 5 of 2000)**

This is the reprint current on the repeal date

Reprint No. 3A

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This Act is reprinted as at 24 September 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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PROFITEERING PREVENTION ACT 1948

[as amended by all amendments that commenced on or before 24 September 2002]

An Act to make better provision for the regulation of prices and rates of certain goods and services by consolidating and amending the law relating to the prevention of profiteering; to regulate sales of certain lands; and for purposes connected therewith

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Profiteering Prevention Act 1948*.

2 Interpretation

(1) This Act and every proclamation, order in council, regulation, declaration, order, approval, direction, requirement, determination, notice, authority, notification, or prohibition or other act of executive or administrative authority made, issued, published, given, or done under or pursuant to this Act by the Governor in Council, the Minister, the board, the commissioner, any delegate of the commissioner, or any other person or authority, shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment contained in this Act, or provision contained in any such proclamation, order in council or regulation, or any (or any term, provision, condition, or limitation of any) such declaration, order, approval, direction, requirement, determination, notice, authority, notification, or prohibition or other act of executive or administrative authority would but for this section be construed as being in excess of that power, it shall nevertheless be a valid enactment, provision, declaration, order, approval, direction, requirement, determination, notice, authority, notification, prohibition, or, as the case may be, other act of executive or administrative authority to the extent to which it is not in excess of that power.

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(2) It is hereby declared to be the intention of the Legislative Assembly—

- (a) that if any enactment of this Act is inconsistent with the Commonwealth of Australia Constitution Act, or if any executive or administrative act done under or pursuant to this Act is in part so inconsistent, that enactment and all the other enactments in this Act, or, as the case may be, that part and all the other parts of the executive or administrative act in question shall nevertheless operate to the full extent to which they can operate consistently with the Commonwealth of Australia Constitution Act; and
- (b) that the provisions of paragraph (a) shall be in addition to, and not in substitution for, the provisions of subsection (1).

5 Transitory provisions

(1) A person shall not, at any time before the maximum price at which the person may sell any declared goods is fixed and declared under this Act, sell those declared goods at a price exceeding the maximum price at which it was lawful for the person to sell those goods under the Commonwealth regulations immediately before the expiration of those regulations.

(2) A person shall not, at any time before the maximum rate at which the person may supply or carry on any declared service is fixed and declared under this Act, supply or carry on that service—

- (a) at a rate exceeding the maximum rate at which it was lawful for the person to supply or carry on that service under the Commonwealth regulations immediately before the expiration of those regulations; or
- (b) (if no such maximum rate was fixed and declared and in force under the Commonwealth regulations immediately prior to the expiration of those regulations) at a rate exceeding the rate at which the service was supplied or carried on by the person immediately prior to the expiration of the Commonwealth regulations.

(3) All declarations, orders, requirements, determinations, notices, authorities, notifications, applications, and consents made, published, or given under the Commonwealth regulations which relate to declared goods or to declared services under and within the meaning of this Act and which were in force in this State immediately prior to the expiration of the

Commonwealth regulations shall, for the purposes of this Act and except so far as they are inconsistent with this Act, be deemed to have been made, published, or given under this Act and, subject to this Act, until repealed, amended, or revoked under this Act shall be deemed to have force and effect accordingly as if made, published, or given under this Act; and any reference in any such declaration, order, requirement, determination, notice, authority, notification, application, or consent to any provision of the Commonwealth regulations shall accordingly, with such adaptations as are necessary, be construed as a reference to the corresponding provision of this Act.

(4) All applications and other like matters under the Commonwealth regulations which are pending immediately before the expiration of those regulations in relation to any declared goods or declared service under and within the meaning of this Act may with such adaptations as are necessary be continued and dealt with under this Act as if they had been commenced under this Act.

6 Meaning of terms

(1) In this Act—

“**authorised officer**” means any inspector and any other person appointed by the commissioner to be an authorised officer for the purposes of this Act.

“**board**” means the Prices Advisory Board constituted under this Act.

“**commissioner**” means the Commissioner of Prices appointed under this Act.

“**Commonwealth regulations**” means the National Security (Prices) Regulations (Cwlth) as in force immediately prior to the expiration thereof, and the term “**expiration**”, where used in reference to those regulations, means ended by repeal or revocation, or by effluxion of time, or otherwise howsoever.

“**declared goods**” means any goods declared by the Governor in Council, by order in council, to be declared goods for the purposes of this Act, and in respect of which the declaration is in force.

“**declared service**” means any service declared by the Governor in Council, by order in council, to be a declared service for the purposes of this Act, and in respect of which the declaration is in force.

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“price” includes every valuable consideration whatsoever, whether direct or indirect.

“public utility undertaking” means any of the following undertakings the carrying on of which is authorised by or under any Act—

- (a) any undertaking for the supply of electricity, gas, or water;
- (b) any transport, dock, harbour, or pier undertaking;
- (c) any sewerage or sewage disposal undertaking, or any undertaking for the collection or disposal of refuse;
- (d) any undertaking of a drainage authority, and includes any such undertaking which is carried on by a local government.

“rate” includes every valuable consideration whatsoever, whether direct or indirect.

“sell” includes agree to sell, or offer, or expose for sale, or keep, or have in possession for sale, or receive, send, forward, or deliver for or on sale, or authorising, causing, permitting, suffering, or attempting any of such acts or things.

“service” means—

- (a) any service supplied or carried on by any person or body of persons, whether corporate or unincorporate, engaged in a public utility undertaking or an industrial, commercial, business, profit making or remunerative undertaking or enterprise (including a professional practice); or
- (b) any rights or privileges for which remuneration is payable in the form of royalty, stumpage, tribute, or other levy based on volume or value of goods produced; or
- (c) any rights under an agreement for the hiring of goods; or
- (d) any rights under an agreement for the hire, use, or occupation of any wharf or dock; or
- (e) any rights under an agreement for the provision of lodging; or
- (f) any rights under an agreement (not being a lease) or a licence for the hiring of a hall; or
- (g) any benefits under a contract of work and labour, or of work and labour and supply of materials.

“supply” includes agree or offer to supply.

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(3) Where any Act passed before and in force at the coming into operation of this Act provides that anything shall be or be deemed to be a commodity within the meaning of the *Profiteering Prevention Act 1920*, that thing shall, subject to subsections (3A) and (3B), be and be deemed to be declared goods under and within the meaning of this Act.

(3A) For the purposes of subsection (3) any reference in any such Act to a provision of the *Profiteering Prevention Act 1920*, shall be read as referring to the corresponding provision of this Act.

(3B) However, the Governor in Council may, by order in council, declare that any such thing shall no longer be or be deemed to be declared goods under and within the meaning of this Act, and while any such order in council remains in force the goods specified therein shall not be or be deemed to be declared goods.

(4) A person who receives (otherwise than as agent) any valuable consideration from any other person in respect of the enjoyment by that other person of a declared service shall, for all purposes of this Act, be deemed to supply that service to that other person for the amount or value, or at the rate, as the case may be, of that valuable consideration.

(5) Where any agreement (including any lease) has been entered into, whether before or after the commencement of this Act, under which a person has become entitled to rights or privileges specified in subsection (1), definition "service" paragraph (b), (c), (d), (e) or (f), the person from whom the rights or privileges have been acquired shall, for all purposes of this Act, be deemed to be supplying those rights or privileges, at all times during which the rights or privileges continue, at the rate of the remuneration charged therefor from time to time.

(6) Where the maximum rate of any such remuneration is, by virtue of any order or notice made or given after the making of any such agreement, and whether before or after the commencement of this Act, fixed under this Act at a rate lower than the rate otherwise payable under any such agreement, the agreement shall, while that maximum rate is in force, be deemed to be varied by the substitution of the rate so fixed for the rate otherwise payable under the agreement in respect of the exercise or enjoyment of any such rights or privileges after the commencement of this Act, or after the date on which the maximum rate becomes applicable, whichever is the later.

PART 2—ADMINISTRATION

7 Administration of Act

This Act shall be administered by the Minister and, subject to the Minister, by the commissioner.

8 Prices advisory board

(1) For the purposes of this Act there shall be a board called the Prices Advisory Board which shall consist of 3 members as follows—

- (a) the chief executive of the department, who shall ex officio be a member and chairperson of the board;
- (b) the Commissioner of Prices appointed under this Act who shall ex officio be a member and deputy chairperson of the board;
- (c) a person appointed by the Governor in Council who shall be an officer of the Department of Primary Industries.

(2) The member of the board mentioned in subsection (1)(c) shall hold office at the pleasure of the Governor in Council.

Appointment of deputy

(3) If the chairperson or any other member of the board for any reason whatsoever is unable to attend a meeting of the board, the member, with the approval of the Minister administering the department of which that member is an officer, or that Minister, may appoint a person to act as the deputy of that member at any such meeting either generally or for any particular meeting and every deputy shall, while so acting, have the powers and perform the duties of the chairperson or, as the case may be, the other member for whom the person is such deputy.

Meetings

(4) Either the Minister or the chairperson may call meetings of the board from time to time.

(4A) The chairperson whenever so requested by the Minister or any other member of the board shall call a meeting of the board.

(5) At a meeting of the board 2 members shall form a quorum.

(6) The members of the board shall receive such remuneration as may be determined by the Governor in Council from time to time.

9 Functions of the board

(1) The functions of the board shall be—

- (a) to report and recommend to the Minister whether, in its opinion, the Governor in Council should at any time by order in council—
 - (i) declare any goods or services to be declared goods or declared services;
 - (ii) declare that any goods or services shall cease to be declared goods or declared services;
 - (iii) declare that any goods or services which have ceased to be declared goods or declared services shall again be declared goods or declared services;

either generally or in respect of any part of the State or of a proclaimed area or part thereof, or in respect of any person, or body or association of persons, or in respect of all persons, or all bodies or associations of persons included in any class of persons, or of bodies or associations thereof;

- (b) to advise the Commissioner of Prices on such principles and formulae as in its opinion should be adopted in the fixation of the maximum price or rate at which any declared goods or declared service may be sold or supplied or carried on or in the exercise by the commissioner of any of the commissioner's powers relating to the fixation of prices or rates as aforesaid;
- (c) to report and recommend to the Minister on any such matter or thing as the Minister may refer to it;
- (d) to advise and consult with the Commissioner of Prices on such matters or things as the commissioner or any other member of the board may refer for advice or consultation.

(2) The members of the board may advise and consult with each other as the circumstances may require.

10 Prices commissioner employed under Public Service Act

A commissioner of prices is to be employed under the *Public Service Act 1996*.

11 Power of commissioner to delegate

(1) The commissioner may, with the consent of the Minister, and shall, if thereunto directed by the Minister, generally, or in relation to any matters or class of matters or in relation to any particular area, by signed writing, delegate such of the commissioner's powers, functions, and authorities under this Act or under any order made under this Act (other than this power of delegation) as the commissioner thinks fit, or, if the delegation is made by direction of the Minister, as the Minister shall specify, so that the delegated powers, functions, and authorities may subject to this Act be exercised by a delegate with respect to the matters or class of matters or area specified in the instrument of delegation.

(1A) The commissioner may make any such delegation subject to such terms, conditions, and limitations as the commissioner shall, subject to approval by the Minister, specify in the instrument of delegation.

(2) Where under this Act the exercise of any power, function, or authority by the commissioner, or the operation of any provision of this Act is dependent upon the opinion, belief, or state of mind of the commissioner in relation to any matter, that power, function, or authority may be exercised by the delegate or that provision may operate (as the case may be) upon the opinion, belief, or state of mind of that delegate.

(3) Every such delegation, excepting a delegation made by direction of the Minister, shall be revocable at will and any such delegation shall be revoked at the direction of the Minister, and no such delegation shall prevent the exercise of any power, function, or authority by the commissioner.

(4) Any such delegation may be published in the gazette and upon such publication shall be judicially noticed.

(5) Subject to this section, the commissioner may make such and so many delegations under this section and to such number of persons as the Minister shall deem necessary or desirable for the effective administration of this Act.

12 Signature of commissioner and of delegate

All courts, judges, justices, and persons acting judicially shall take judicial notice of the signature of the commissioner, or of any delegate of the commissioner, affixed to any document or notice, and shall presume that it was duly affixed.

13 Inspectors and other officers employed under Public Service Act

Inspectors and other officers necessary for this Act are to be employed under the *Public Service Act 1996*.

14 Advisers

(1) The commissioner may, if the commissioner thinks fit, for the purposes of any investigation or inquiry, call in the aid of advisers possessing expert or business knowledge.

(2) The advisers shall be appointed by the Minister, and shall hold office during the pleasure of the Minister.

(3) An adviser appointed in pursuance of subsection (2) shall receive such remuneration for the adviser's services, and travelling allowance at such rates, as the Minister determines.

15 Declarations of secrecy

(1) The commissioner, each other member of the board, any adviser called in by the commissioner, and every inspector or other officer or person exercising any power or performing any duty under this Act shall, before entering on duties under this Act, sign a declaration of secrecy in accordance with the form in the schedule.

(2) All declarations of secrecy under this Act shall be lodged with the commissioner, who shall cause all such declarations to be retained in the commissioner's office.

(3) A person shall not, except in the course of the person's duty under this Act, directly or indirectly communicate or divulge any information relating to any matter which comes to the person's knowledge in consequence of the person's official position.

(4) Nothing in this section shall be deemed to prohibit—

- (a) the commissioner, whenever the commissioner considers it necessary or desirable in the interests of justice so to do—
 - (i) from communicating to the Minister any information which comes to the commissioner's knowledge in consequence of the commissioner's official position and which makes it appear that any person has committed, or is suspected of having committed or is about to commit, an offence against any law relating to secret commissions; or

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- (ii) from producing to the Minister for use in connection with the prosecution of a person for any such offence any documents, books, or papers containing any such information; or
- (b) any person exercising any power or performing any duty under this Act from answering any question relating to any such offence which the person is required to answer when called as a witness in the prosecution of a person for that offence; or
- (c) the commissioner or any person thereto authorised in writing by the commissioner from communicating to the Commonwealth Commissioner of Taxation or to a Commonwealth Deputy Commissioner of Taxation any information for the purpose of the administration of any law of the Parliament of the Commonwealth relating to taxation or from communicating to the Commissioner of Land Tax or to the chief executive of the department in which the *Valuation of Land Act 1944* is administered any information for the purpose of the administration of the *Land Tax Act 1915*, or of the *Valuation of Land Act 1944*; or
- (d) the commissioner or any person thereto authorised in writing by the commissioner from communicating to the proper officer in any other State any information for the purpose of the administration of any law of that State relating to the regulation of prices in force in that State.

(5) In subsection 15(4)(d)—

“proper officer”, in relation to any State, means any person appointed in writing by the Minister of State in that State who is charged with the administration of the law relating to the regulation of prices in force in that State.

16 The Minister, commissioner etc. not compellable witnesses

The Minister, or the commissioner, or a member of the board, or an adviser or a person who has been the Minister, or the commissioner, or a member of the board, or an adviser shall not be a compellable witness in any proceedings against any person for contravening or failing to comply with—

- (a) any provision of this Act; or
- (b) any provision of any order made in pursuance of any provision of this Act.

17 Powers of commissioner etc.

(1) The commissioner and any officer thereto authorised in writing by the commissioner shall severally have power to—

- (a) summon witnesses; and
- (b) take evidence on oath; and
- (c) require the production of documents, books, and papers.

(2) Witnesses summoned in pursuance of subsection (1) may be paid such fees and allowances as are fixed by the Governor in Council or as are prescribed.

18 Failure of witness to appear

A person, having been summoned as a witness in pursuance of section 17, shall not fail, without lawful excuse, to appear in obedience to the summons.

19 Failure of witness to be sworn, produce documents, or answer questions

A person, having appeared as a witness before the commissioner or an officer authorised in writing by the commissioner, whether summoned so to appear or not, shall not refuse, without lawful excuse, to be sworn, or to make an affirmation, or to produce documents, books, and papers, or to answer questions which the person is lawfully required to answer.

20 Affirmation in lieu of oath made by witness

(1) Where any witness to be examined by the commissioner or an officer authorised in writing by the commissioner conscientiously refuses to take an oath, the witness may make an affirmation that the witness conscientiously objects to take an oath and that the witness will state the truth, the whole truth and nothing but the truth, to all questions asked the witness.

(2) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

21 Power of the commissioner etc. to obtain information

(1) The commissioner or an authorised officer may require any person—

- (a) to furnish the commissioner with such information as the commissioner requires; or
- (b) to answer any question put to the person;

in relation to any goods or services, whether declared or not, or to any other matter arising under this Act.

(2) The commissioner or authorised officer may require the information to be furnished, or the question to be answered, on oath and either orally or in writing, and for that purpose may administer an oath.

(3) The commissioner or authorised officer may, by notice in writing, require the information to be furnished, or the question to be answered in writing and at the place specified in the notice.

(4) A person shall not, when so required under subsection (1)—

- (a) fail to furnish any information or to answer any question; or
- (b) furnish any information or make any answer which is false in any particular;

and a person shall not, when required to furnish any information, or to answer any question, in compliance with a provision of subsection (2) or of subsection (3)—

- (c) fail to furnish that information, or to answer that question, in compliance with that provision; or
- (d) furnish or make, in purported compliance with that provision, any information or answer which is false in any particular.

(5) A person shall not be obliged to answer any question or questions unless the person has first been informed by the commissioner or the authorised officer asking the question or questions that the person is required and is obliged to answer by virtue of this section.

(6) A person shall not refuse to furnish any information required or to answer any question put to the person pursuant to this section on the ground that so doing might tend to incriminate the person or to make the person liable to any penalty.

(7) Any answer given by any person pursuant to any requirement under this section after the person has been informed in the manner required by subsection (5) shall not be admissible in evidence in any proceedings, civil or criminal, against the person other than proceedings taken pursuant to subsection (4).

(8) However, an answer relating to the person's name, or address, or name and address, or to the ownership of any business, shall be admissible in evidence in any proceedings under this Act against the person who gave that answer notwithstanding that the person gave it pursuant to a requirement under this section after having been informed in the manner provided by subsection (5).

22 Production of balance sheets and other accounts and statements

(1) A trader who sells or has for sale any goods or who supplies or carries on any service, upon being required so to do by the commissioner by notice in writing, shall produce to the commissioner within the time specified in that notice—

- (a) all balance sheets, manufacturing, trading, profit and loss, production and revenue accounts and all production, financial and statistical and similar statements prepared by the trader or on the trader's behalf in relation to the trader's business of selling goods or supplying or carrying on a service; and
- (b) all documents of any kind (including documents of the kind referred to in section 40¹) which relate to the conduct of the business including the sale of the goods or the supply or carrying on of the service;

which are specified in the notice, and shall leave those balance sheets, accounts, statements, and documents with the commissioner or furnish the commissioner with copies thereof.

(2) Where any balance sheet, account, statement, or document required to be produced to the commissioner is in the possession or control of any person other than the trader to whose business it relates, that person shall, upon being required so to do by the commissioner by notice in writing, produce to the commissioner, within the time specified in that notice, that balance sheet, account, statement or document and shall leave it with the commissioner or furnish the commissioner with a copy of it.

¹ Section 40 (Books, accounts etc. to be kept and preserved)

(3) A trader or other person who has been required to produce to the commissioner any balance sheet, account, statement, or document shall, if the commissioner so requires, permit the commissioner to make a copy of, or to take an extract from, that balance sheet, account, statement, or document.

23 Power to enter premises and inspect documents

(1) The commissioner or any authorised officer may enter upon and search any premises and inspect any documents, books and papers and may inspect and take samples of any stocks of declared goods or of any other goods.

(2) The commissioner or any authorised officer may impound or retain any documents, books and papers produced to the commissioner or inspected by the commissioner in pursuance of this section and may make copies or abstracts of those documents, books and papers, or of any entries therein, but the person entitled to those documents, books and papers shall, in lieu thereof, be entitled within a reasonable time to a copy certified as correct by the commissioner, and such certified copy shall be received in all courts as evidence and as of equal validity to the original.

(3) Any documents, books or papers impounded or retained immediately before the expiration of the Commonwealth regulations in pursuance of regulation 18(2) of the Commonwealth regulations shall be deemed to have been impounded or retained in pursuance of subsection (2).

(4) A person shall not hinder, obstruct, or interfere with or attempt to hinder, obstruct, or interfere with the commissioner or any authorised officer in the execution of any of the commissioner's powers under this section.

24 Commissioner may require returns to be furnished

(1) The commissioner may, by notice, require any person to furnish to the commissioner or to an authorised officer, within a specified time and in a specified form, a return setting forth to the best of the person's knowledge and ability the following particulars or such of them as are specified in the notice, namely—

- (a) the quantity of any goods in the person's possession or under the person's control at a specified date;
- (b) the cost to that person of those goods;

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- (c) the methods and principles in accordance with which that person arrives at that cost;
- (d) where the maximum price of the goods has not been fixed in pursuance of the Commonwealth regulations or this Act—the prices, wholesale or retail, at which, and conditions on which, the person has sold, sells, or proposes to sell the goods;
- (e) the price, wholesale or retail, charged by the person on such date as the commissioner specifies, for the goods and the conditions of any such sale;
- (f) such further particulars as are specified in the notice.

(2) The commissioner may, by notice, require any person engaged in the supply or carrying on of any service to furnish to the commissioner, or to an authorised officer, a return setting forth to the best of the person's knowledge and ability such particulars relating to such service as are specified in the notice.

(3) Any notice given under this section may be either a notice given to a person individually or a notice to persons or to a class of persons generally; and such lastmentioned notice shall be published in the gazette and in such newspapers (if any) as the commissioner directs.

(3A) However, before any person may be prosecuted for failing to furnish any such return a notice requiring the furnishing of such return shall be given to such person in the manner prescribed by section 81(1)(a).²

(4) The return shall be verified by statutory declaration.

(5) Any return furnished by any person under this section shall, in any proceedings under this Act, be admissible in evidence against that person.

(6) A person shall not—

- (a) fail to comply with any of the requirements of any such notice; or
- (b) wilfully furnish any return which is false or misleading in any particular.

² Section 81 (Manner in which notice in writing may be given)

PART 3—MAXIMUM PRICES AND RATES FOR GOODS AND SERVICES

25 Proclaimed areas

(1) The commissioner may, from time to time, by notice in the gazette, declare that any area specified by the commissioner shall, for the purposes of this Act, be a proclaimed area or part of a proclaimed area, and thereupon the area shall, so long as the declaration remains in force, be deemed to be a proclaimed area or part thereof, as the case may be.

(2) The commissioner may, from time to time, by notice in the gazette, declare that any proclaimed area, or any part thereof, shall cease to be a proclaimed area, or part thereof (as the case may be), and thereupon such area or part shall cease to be a proclaimed area or part thereof, as the case may be.

26 Power of the Governor in Council to declare goods and services

(1) The Governor in Council may, from time to time, by order in council—

- (a) declare that any goods or services shall be declared goods or declared services; and
- (b) declare that any goods or services shall cease to be declared goods or declared services; and
- (c) declare that any goods or services which have ceased to be declared goods or declared services shall again be declared goods or declared services.

(2) Any declaration by the Governor in Council in pursuance of this section may be made generally or in respect of any part of the State or of a proclaimed area or part thereof, or in respect of any person, or body or association of persons, or in respect of all persons, or all bodies or associations of persons included in any class of persons, or of bodies or associations thereof.

27 Maximum prices, rates etc.

(1) The commissioner may, with respect to any declared goods or declared service, from time to time, in the commissioner's absolute discretion, by order published in the gazette—

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- (a) fix and declare the maximum price or rate at which any such goods or service may be sold or supplied or carried on; or
- (b) declare that the maximum price or rate at which any such goods or service may be sold or supplied or carried on—
 - (i) by any person, shall be such price or rate as is fixed by the commissioner by notice in writing to that person; or
 - (ii) by any body or association of persons, or any member of any such body or association, shall be such price or rate as is fixed by the commissioner by notice in writing to that body or association, but only if that body or association—
 - (A) is recognised by the commissioner as representative of the producers or manufacturers of or traders in those goods or of the persons who supply or carry on that service; and
 - (B) has requested the commissioner in writing to exercise those powers.

(2) In particular, but without limiting the generality of subsection (1), the commissioner, in the exercise of the commissioner's powers under that subsection, may fix and declare maximum prices or rates—

- (a) differentially according to differences in quality or description of goods or in the quantity sold, or in the quality, description, or volume of the service supplied or carried on, or in respect of different forms, modes, conditions, terms, or localities of trade, commerce, sale, or supply;
- (b) for the whole or different parts of the State, or in different proclaimed areas or parts thereof;
- (c) differentially for different parts of the State or for different proclaimed areas or parts thereof;
- (d) on a sliding scale;
- (e) on a condition or conditions;
- (f) for cash, delivery or otherwise, or on terms, and in any such case inclusive or exclusive of the cost of packing or delivery;
- (g) on landed or other cost, together with a percentage thereon or a specified amount, or both;
- (h) according to or upon any principle or condition specified by the commissioner;

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- (j) relative to such standards of measurement, weight, capacity, or otherwise howsoever as the commissioner thinks proper, or relative to prices or rates charged by individual traders or individual suppliers on any date specified by the commissioner, with such variations (if any) as in the special circumstances of the case the commissioner thinks fit, or so that such prices or rates shall vary in accordance with a standard, or time, or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the commissioner;
- (k) by reference to a list of prices or rates approved by the commissioner and issued by a body or association of persons which is recognised by the commissioner—
 - (i) in the case of sales by a producer or manufacturer of goods—to be representative of the producers or manufacturers, as the case may be, of the goods in relation to the sale of which the price is so fixed; and
 - (ii) in the case of sales by a trader in goods—to be representative of the traders in the goods in relation to the sale of which the price is so fixed; and
 - (iii) in the case of suppliers of services—to be representative of the persons who supply or carry on the service to which the order relates.

(3) Where the commissioner makes an order in the form authorised by subsection (2)(k), the commissioner shall, on application by a seller of the goods or of a person who supplies or carries on the service to which the order relates, furnish the person with a copy of the list of prices or, as the case may be, rates referred to in the order.

(4) Where the commissioner fixes by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association may sell any goods or supply or carry on any service—

- (a) the secretary or other proper officer of the body or association shall—
 - (i) upon receipt of the notice, forthwith acknowledge its receipt by telegram addressed to the commissioner and communicate to the members, by letter or telegram, its contents and the date upon which the secretary received it; and

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- (ii) make a record of the time at which and the manner in which the secretary communicates to each member the matters specified in subparagraph (i); and
 - (iii) produce the record for inspection on demand by the commissioner; and
- (b) the contents of the notice, if communicated by letter, shall be presumed, unless the contrary is proved, to have been communicated to a member at the time at which the letter would be delivered to the member in the ordinary course of post; and
 - (c) the notice shall take effect, in respect of any member, upon communication to the member of its contents or upon the expiration of 7 days from its receipt by the secretary or other proper officer of the body or association, whichever is the earlier.

(5) An order under this section may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the order.

(6) The mere production of the gazette containing an order published in pursuance of this section fixing and declaring—

- (a) by reference to a list of prices, the maximum price at which any declared goods may be sold; or
- (b) by reference to a list of rates, the maximum rate at which any declared service may be supplied or carried on;

or of a paper purporting to be a copy of any such order and purporting to be printed by the government printer shall in all courts be evidence (and in the absence of evidence in rebuttal, shall be conclusive evidence) that the list was at the date of publication of the order in the gazette approved by the commissioner and issued by a body or association of persons recognised by the commissioner to be—

- (c) representative of the producers or manufacturers of the goods; or
- (d) representative of the traders in the goods; or
- (e) representative of the persons who supply or carry on the service;

as the case may be.

(6A) Subsection (6) shall extend and apply to and in respect of an order of the character described in subsection (6) published in the Commonwealth gazette before the commencement of this Act in pursuance of regulation 23 of the Commonwealth regulations, and having force or

effect immediately before the expiration of those regulations, and for the purposes of such application, a reference in subsection (6) to the gazette shall be construed as a reference to the Commonwealth gazette, a reference to the government printer shall be construed as a reference to the Commonwealth government printer, and a reference to the commissioner shall be construed as a reference to the prices commissioner appointed under the Commonwealth regulations.

(7) The commissioner may at any time by order published in the gazette amend, vary, or revoke any order made under this section or any order mentioned in subsection (6A) which was made under the Commonwealth regulations.

(8) Every order made under this section shall take effect upon the date specified in the order or, if no date is so specified, upon the date of the publication of the gazette containing it.

(9) Every order which has been, or is, made under subsection (1) and every order mentioned in subsection (6A) which was made under the Commonwealth regulations (not being an order in respect of specific goods) shall apply in relation to all goods which are declared, whether before or after the making of the order (or, in the case of any such order under the Commonwealth regulations, are declared under this Act), to be declared goods and in respect of which the declaration is in force.

27A Goods to be sold by unit of number, or weight, or measure to which maximum price is related

(1) Where the commissioner relates to a unit of number, or weight, or measure, the maximum price, as fixed and declared by the commissioner, at which any declared goods may be sold, a person shall not sell those declared goods otherwise than by that unit or some multiple or part thereof.

(2) In respect of a lot of declared goods to the sale whereof subsection (1) applies, the cost to the seller of the unit of number, or weight, or measure to which the maximum price at which those goods may be sold is related shall be the amount obtained by dividing the cost of that lot to the seller by the number of those units therein.

(3) For the purposes of this section “**cost**”—

- (a) in relation to any goods (not being goods to or in respect of which an order under subsection (4) applies), means the actual price paid or payable by the person who purchased the goods (in

this definition “**the purchaser**”) to the person from whom the purchaser purchased them, plus any expenses which—

- (i) were actually and specifically incurred by the purchaser in placing the goods at the point of delivery by the purchaser for the purposes of a sale by the purchaser; and
- (ii) at the time of the sale or offer for sale by the purchaser, were recorded—
 - (A) on a copy of an invoice for the goods which is held by the purchaser; or
 - (B) in the books and accounts of the purchaser in such a manner that they can be readily identified and clearly associated with the goods; or
- (b) in relation to any goods to or in respect of which an order under subsection (4) applies—has the meaning defined in that order.

(4) For the purposes of this section, the commissioner may, by order published in the gazette, define the meaning of the term ‘cost’ in relation to—

- (a) any class of sale specified in the order; or
- (b) any class of goods so specified; or
- (c) any class of trader so specified.

(5) For the purposes of this section, a person shall be deemed to sell by offering for sale goods if the person notifies the price proposed by the person for a sale of the goods by the publication of a price list, by furnishing a quotation, by exposing the goods for sale in association with a mark indicating price, or otherwise howsoever.

28 Sale of goods and supply of service in 1 transaction

(1) The powers of the commissioner of or in relation to fixing and declaring—

- (a) the maximum price at which any declared goods may be sold; and
- (b) the maximum rate at which any declared service may be supplied or carried on;

shall be deemed to extend to and in relation to the fixing and declaring of the maximum remuneration for the sale of any declared goods and the

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supply of any declared service for an undivided remuneration, and the provisions of this part (whether relating to the powers of the commissioner or to any other matter) shall with such adaptations as are necessary apply accordingly.

(2) For the purposes of this Act, a transaction in respect of which a maximum remuneration has been fixed under subsection (1) shall be deemed to be the supply of a declared service at a rate equal to the undivided remuneration charged, and the maximum remuneration so fixed shall be deemed to be the maximum rate fixed under this Act for the supply of that service.

(3) For the purposes of this Act, and of any order or notice under this Act (including any order or notice under the Commonwealth regulations deemed by this Act to be an order or notice hereunder), unless the contrary intention appears—

- (a) the sale of any goods shall be deemed to include the supply, in connection with the sale (whether or not for a separate remuneration) of any service customarily supplied by vendors in connection with such a sale without any separate remuneration; and
- (b) the supply or carrying on of any service shall be deemed to include the sale or supply, in connection with the service (whether or not for a separate price or remuneration) of any goods customarily sold or supplied by persons supplying or carrying on such a service without any separate price or remuneration.

(4) For the purposes of this Act, and of any order or notice under this Act (including any order or notice under the Commonwealth regulations deemed by this Act to be an order or notice hereunder), the sale of any declared goods and the supply of any declared service for an undivided remuneration, if—

- (a) no maximum remuneration applicable to the transaction as a whole has been fixed under this Act; and
- (b) the transaction as a whole is not one which is, by reason of subsection (3), deemed to be either a sale of goods or the supply of a service;

shall be deemed to be—

- (c) a sale of the declared goods at a price equal to so much of the undivided remuneration as bears to the whole of the undivided

remuneration the same proportion as the maximum price fixed under this Act for the sale of the goods bears to the sum of that fixed price and the maximum rate fixed under this Act for the supply of the service; and

- (d) a supply of the service at a rate equal to the remaining part of the undivided remuneration.

29 Transactions may be declared to be sales

(1) The commissioner may, by order published in the gazette, declare that where a person (in this section called “**the agent**”) purchases goods (whether declared goods or not) as agent, or purported agent, for another person (in this section called “**the principal**”) and processes or treats the goods and delivers goods resulting from the processing or treatment to the principal, the carrying out of the agency (or purported agency) and the performance of the other services by the agent shall, for the purposes of this Act, be deemed to be a sale of the goods so delivered by the agent to the principal at a price equal to the sum of the amounts paid or payable by the principal to the agent in respect of the agency and services (including the price paid by the agent for the goods purchased by the agent) and the order shall, for the purposes of this Act, have effect according to its tenor.

(2) The commissioner may, either generally by order published in the gazette, or specifically by notice in writing, exempt any person or class of persons from the operation of any order made under this section.

30 Power of the commissioner to prohibit certain transactions

(1) Where the commissioner is of opinion that it is necessary so to do in order to prevent a person (in this section called “**the vendor**”) who carries on the business of selling declared goods or supplying declared services from continuing to operate a scheme which, in the opinion of the commissioner—

- (a) involves a departure from the vendor’s normal course of trading; and
- (b) would not be operated but for the provisions of this Act or of an order hereunder; and
- (c) has the effect that the real cost (taking into account losses involved in transactions connected with the scheme) to any purchaser or purchasers of goods from the vendor, of any

declared goods so purchased, or to any person or persons to whom services are supplied by the vendor, of any declared services so supplied, is more than the maximum price or rate fixed under this Act for the sale of those goods or the supply of those services;

the commissioner may, by notice in writing directed to the vendor, and published in the gazette or served on the vendor, specify a class of transactions (being, in the opinion of the commissioner, a class of transactions which is being used for the purposes of the scheme) to be a class of transactions to which this section shall apply.

(2) Except with the consent of the commissioner, a person to whom a notice under this section (duly published or served) is directed shall not, while the notice remains unrevoked, enter into a transaction included in a class of transactions specified in the notice.

(3) A notice under this section shall specify the class of declared goods or declared services in relation to which, in the opinion of the commissioner, the scheme is being operated, but shall have full force and effect notwithstanding that it does not specify or describe the scheme which, in the opinion of the commissioner, makes the notice necessary.

(4) Any reference in this section to a person shall be deemed to include a reference to persons included in a class of persons, and this section shall with such adaptations as may be necessary apply accordingly.

31 Power of Minister to suspend order etc.

(1) Notwithstanding anything contained in this Act, the Minister may request the commissioner to consider further any matter dealt with by any order made under section 27,³ or any part of any such order, and the commissioner shall, within 28 days from the date of any request so made, report thereon to the Minister.

(2) Notwithstanding anything contained in this Act, the Minister may, by notice in the gazette, suspend the operation of any order made under section 27, or any part of any such order, for a period not exceeding 28 days from the date of the Minister's request.

3 Section 27 (Maximum prices, rates etc.)

(3) Upon the publication of the notice, the maximum price or rate (if any) which prevailed prior to the making of the order which has been suspended shall apply during the period of the suspension.

(4) The commissioner shall—

- (a) within the period specified in the notice of suspension, report thereon to the Minister; and
- (b) within such period, by order published in the gazette, confirm, amend, vary, or revoke the order or part so suspended in conformity with the commissioner's report to the Minister;

and, on receipt of the report of the commissioner, the Minister shall, by notice in the gazette, remove the suspension.

32 Power of the commissioner to prohibit sale of goods or supply of services before maximum price or rate fixed

The commissioner may, by order, provide that a person shall not sell any declared goods, or supply or carry on any declared service specified in that order unless and until that person has made a written request to the commissioner to fix the maximum price at which the goods may be sold or the maximum rate at which the service may be supplied or carried on and the commissioner has fixed the maximum price or the maximum rate accordingly.

33 Inter-wholesale transactions

(1) A wholesaler (in this section called “**the buyer**”) who purchases any declared goods from another wholesaler (in this section called “**the seller**”) shall not sell those goods at a price in excess of—

- (a) where, at the time of the sale thereof by the buyer, the maximum price at which those goods might be sold by the seller is fixed and declared by the commissioner (the onus of ascertaining which maximum price shall be upon the buyer)—that maximum price; or
- (b) where, at the time of the sale thereof by the buyer, the maximum price referred to in subsection(1)(a) is not fixed and declared by the commissioner—the cost to the buyer.

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(2) A wholesaler who purchases any declared goods from a retailer shall not sell or offer for sale those goods at a price in excess of the cost to the retailer and the onus of ascertaining such cost shall be upon the wholesaler.

(3) Notwithstanding anything contained in subsection (1), the buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the buyer, the commissioner declares to the buyer in writing.

(4) For the purposes of this section, the buyer may request the seller of goods to supply the buyer with such information as the buyer deems necessary to enable the buyer to comply with the provisions of this section and the seller shall thereupon furnish in writing such information to the buyer.

(5) The commissioner may, generally by order published in the gazette or specifically by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this section.

(6) In this section—

“**wholesaler**”, in respect of any goods, means any person who purchases those goods and sells or supplies them for resale or for manufacture for sale.

(7) For the purposes of this section “**cost**”—

(a) in relation to any goods (not being goods to or in respect of which an order under subsection (8) applies)—means the actual price paid or payable by the wholesaler who purchased the goods (in this definition called “**the purchaser**”) to the wholesaler or retailer from whom the purchaser purchased them, plus any expenses which—

(i) were actually and specifically incurred by the purchaser in placing the goods at the point of delivery by the purchaser for the purposes of a sale by the purchaser; and

(ii) at the time of the sale or offer for sale by the purchaser, were recorded—

(A) on a copy of an invoice for the goods which is held by the purchaser; or

(B) in the books and accounts of the purchaser in such a manner that they can be readily identified and clearly associated with the goods; or

- (b) in relation to any goods to or in respect of which an order under subsection (8) applies—has the meaning defined in that order.

(8) For the purposes of this section, the commissioner may, by order published in the gazette, define the meaning of the term ‘cost’ in relation to—

- (a) any class of sale specified in the order; or
(b) any class of goods so specified; or
(c) any class of trader so specified.

34 Inter-retail transactions

(1) A retailer (in this section called the “**retail buyer**”) who purchases any declared goods from any other retailer (in this section called the “**retail seller**”) shall not sell or offer for sale those goods at a price in excess of—

- (a) where, at the time of the sale or offer, the maximum price at which those goods might be sold by the retail seller is fixed and declared by the commissioner—that maximum price; or
(b) where, at the time of that sale or offer, the maximum price referred to in paragraph (a) is not fixed and declared by the commissioner—the cost, to the retail buyer.

(2) Notwithstanding anything contained in subsection (1), the retail buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the retail buyer, the commissioner declares to the retail buyer in writing.

(3) For the purpose of this section, the retail buyer may request the retail seller of goods to supply the retail buyer with such information as the retail buyer deems necessary to enable the retail buyer to comply with the provisions of this section, and the retail seller shall thereupon furnish in writing such information to the retail buyer.

(4) The commissioner may generally, by order published in the gazette, or specifically, by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this section.

(5) For the purposes of this section “**cost**”—

- (a) in relation to any goods (not being goods to or in respect of which an order under subsection (6) applies)—means the actual price paid or payable by the retail buyer to the retail seller, plus any expenses which—

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- (i) were actually and specifically incurred by the retail buyer in placing the goods at the point of delivery by the retail buyer for a sale by the retail buyer; and
- (ii) at the time of the sale or offer for sale by the retail buyer were recorded—
 - (A) on a copy of an invoice for the goods held by the retail buyer; or
 - (B) in the books and accounts of the retail buyer in such a manner that they can be readily identified and clearly associated with the goods; or
- (b) in relation to any goods to or in respect of which an order under subsection (6) applies—has the meaning defined in that order.

(6) For the purposes of this section, the commissioner may, by order published in the gazette, define the meaning of the term ‘cost’, in relation to—

- (a) any class of sale specified in the order; or
- (b) any class of goods so specified; or
- (c) any class of trader so specified.

35 Delivery of invoice or docket with goods

The commissioner may by order provide that any person, or any person included in any class of persons, who sells any goods (whether declared goods or not) shall deliver with the goods, or within such time after the delivery of the goods as is specified in the order, an invoice or docket containing such particulars as are so specified.

36 Exhibiting particulars with respect to declared goods and declared services

(1) The commissioner may by order require any trader, or any trader included in any class of traders, who sells or has for sale any declared goods or who supplies or carries on any declared service, the maximum price of or the maximum rate for which is fixed by or under this part, to exhibit, in such position and in such manner as are specified in the order, such particulars relating to any such declared goods or services as are so specified.

(2) The commissioner or an authorised officer may at any time by notice in writing require the owner or person in charge of any trader's place of business to furnish the commissioner with details of the particulars which the trader is purporting to exhibit in pursuance of any order made under this section.

(3) The commissioner or an authorised officer, if, in the commissioner's opinion, the particulars are not legible to persons contemplating making any purchase or conducting any business at the trader's place of business, may direct that they be exhibited in such position or in such manner as the commissioner thinks fit, and the owner or person in charge of the trader's place of business shall forthwith cause the particulars to be exhibited in accordance with the direction.

(4) A person shall not fail to comply with any requirement or direction made or given under this section or by any order made under this section.

37 Advertisements as to declared goods

(1) The commissioner may, by order published in the gazette, make provision for the inclusion in advertisements, or in any class of advertisements, published by any person, or by any specified person, or by persons included in any class of persons, in relation to any declared goods or any class of declared goods of such particulars (including particulars as to the maximum price fixed by or under this Act) as are specified in the order.

(2) A person shall not publish, or cause to be published, any advertisement in relation to declared goods which does not include the particulars required to be specified in pursuance of any order under this section which is applicable to that advertisement.

(3) An advertisement shall be deemed to be published within the meaning of this section if it is—

- (a) inserted in any newspaper, periodical, or other publication printed, published, or circulating in this State; or
- (b) exhibited to public view in, or on, any building, vehicle, or place (whether or not a public place and whether on land or water); or
- (c) contained in any document sent or delivered gratuitously to any person or thrown or left upon premises in the occupation of any person; or
- (d) broadcast by wireless transmission.

38 Attaching of tickets etc. to declared goods

The commissioner may by order require any person who sells or has for sale any declared goods the maximum price of which is fixed by or under this Act to attach to, or display with, such of those goods as the commissioner specifies a ticket or label in such form as the commissioner determines, setting forth such particulars relating to those goods as the commissioner specifies, or otherwise to mark them with those particulars in such manner as the commissioner determines.

39 Statements that prices have been approved by the commissioner prohibited without commissioner's approval

(1) A person shall not—

- (a) publish, print, circulate, announce (by way of broadcast by wireless transmission), or make public in any other manner whatsoever, or cause to be published, printed, circulated, announced (by way of broadcast by wireless transmission), or made public in any other manner whatsoever, any notification relating to any goods or service; or
- (b) sell or offer for sale any goods having affixed thereto or associated therewith any label, brand, or other mark;

containing words stating or implying that any price or rate specified therein or thereby with respect to such goods or service has been approved by the commissioner or that such goods or service has been subsidised by the Commonwealth.

(2) However, this section shall not apply to a person who, with the prior approval in writing of the commissioner, includes in any such notification, label, brand or mark a statement in such form as has been approved by the commissioner and containing an approval number allotted by the commissioner to the particular approval, stating that any price or rate specified therein has been approved by the commissioner.

39A Misleading publicity respecting reductions in prices of goods and rates for services, prohibited

(1) A person shall not, at any time when the maximum price or rate at which any declared goods or declared service may be sold or supplied is fixed and declared by the commissioner—

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- (a) publish, print, circulate or, by way of broadcast by wireless telegraphy, announce; or
- (b) cause to be published, printed, circulated or, by way of broadcast by wireless telegraphy, announced; or
- (c) make public or cause to be made public in any other manner whatsoever;

any notification stating, indicating, or implying that the price at which those goods are for sale or the rate for the supply of that service has been reduced from an amount greater than that maximum price or maximum rate.

(2) For the purposes of this section—

“**notification**” includes, but without limit to the generality thereof, a price list, a quotation, and, in respect of any goods exposed for sale, any label or mark associated with those goods whereby the sale price thereof is indicated.

40 Books, accounts etc. to be kept and preserved

(1) Every person who in the course of, or for the purposes of, or in connection with, or as incidental to, any business carried on by the person—

- (a) produces, manufactures, sells, or supplies any goods whatsoever; or
- (b) supplies or carries on any service whatsoever;

shall, for the purposes of this Act, keep proper books and accounts, and where applicable, stock and costing records, and shall preserve those books and accounts and stock and costing records, including all copies of invoices and all vouchers, agreements, correspondence, cables, telegrams, stock sheets, and other documents relating to the person’s purchases of stock, costs, and sales of any goods or relating to any service supplied or carried on by the person, until their destruction is authorised by the commissioner.

(2) Without affecting the generality of subsection (1), the commissioner may, by notice in writing, direct any person to whom that subsection applies to keep such books, accounts, and records as are specified in the notice.

(3) Every person to whom any such direction is given shall comply with the direction and shall preserve the books, accounts, and records required

to be kept by the person in accordance with the direction until their destruction is authorised by the commissioner.

41 Application of orders etc.

Any order, declaration, or notice authorised to be made or given under this Act may be made or given so as to apply according to its tenor to—

- (a) persons generally; or
- (b) all or any persons included in a class of persons; or
- (c) in the case of an order—any person to whom a notice is given in pursuance of the order; or
- (d) all or any persons in any area; or
- (e) any particular person; or
- (f) the sale of goods or supply of a service or services to a particular person by a particular person; or
- (g) goods or services generally; or
- (h) any class of goods or any class of services; or
- (i) all or any goods or services in any area; or
- (j) specific goods or a specific service.

42 Sale of goods subject to condition to refund excess price prohibited

(1) A person shall not, unless the consent in writing of the commissioner has first been obtained—

- (a) sell any declared goods or supply any declared service subject to a condition to the effect that, if the price or rate at which the goods are sold or the service supplied is not approved at a later date by the commissioner, a refund or adjustment will be made; or
- (b) sell any declared goods, or supply any declared service, subject to a condition requiring the buying of any other goods or the supply of any other service, whether declared or not declared.

(2) Proof that a person selling any declared goods and any other goods for an undivided total price without having first obtained the consent in

writing of the commissioner refused to sell those declared goods separately shall be conclusive evidence that the person sells those declared goods subject to a condition requiring the buying of the other goods in question.

(3) Proof that a person supplying any declared service and any other service for an undivided total price without having first obtained the consent in writing of the commissioner refused to supply that declared service separately shall be conclusive evidence that the person supplies that declared service subject to a condition requiring the supplying of the other service in question.

43 Offence to sell goods or supply service at price or rate higher than maximum price or rate

(1) A person shall not—

- (a) sell any declared goods or supply any declared service at a greater price or rate than the maximum price or rate fixed in relation thereto by or under this Act for the sale of those goods or the supply of that service; or
- (b) without the prior approval in writing of the commissioner, sell any declared goods or supply any declared service upon terms or conditions different from the terms or conditions upon which substantially identical goods or services were sold or supplied by the person on the prescribed date if such sale or supply upon such terms and conditions would result directly or indirectly—
 - (i) in a greater price or rate than the maximum price or rate fixed in relation thereto being obtained; or
 - (ii) in any other manner to the advantage of the seller or supplier.

(2) When any declared goods have been sold or any declared service has been supplied in contravention of a provision of subsection (1), the court may, in addition to imposing any lawful punishment, order the offender to refund to the purchaser of those goods or to the person receiving that service the difference between the maximum price or rate so fixed and the price or rate at which those goods were sold or that service was supplied.

(3) Where a court has made an order under subsection (2), a certificate under the hand of the clerk or other appropriate officer of the court, specifying the amount ordered to be refunded and the person by whom and the person to whom the amount is payable, may be filed in any court

having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a final judgment of that court.

(4) A certificate by the commissioner specifying the difference between the maximum price or rate fixed in relation to the goods or service the sale or supply of which is the subject of any proceedings under subsection (1), and the price or rate at which the goods were sold or the service supplied shall, for the purposes of subsection (2), be evidence of the matters stated therein and, in the absence of evidence in rebuttal, shall be conclusive evidence of those matters.

(5) For the purposes of this section, any person on whose behalf or at whose place of business any declared goods are sold or any declared service is supplied at a greater price or rate than the maximum price or rate fixed in relation thereto by or under this Act for the sale of those goods or the supply of that service, whether the goods are sold or the service is supplied contrary to the instructions of that person or not, shall be deemed to have contravened the provisions of this section, unless the court is satisfied that the sale or supply took place without the person's knowledge and that the person has systematically used all due diligence to secure observance of this Act.

(6) For the purposes of this section, a person shall be deemed to sell by offering for sale goods or to supply by offering to supply a service if the person notifies the price or rate proposed by the person for a sale of the goods or the supply of the service by the publication of a price list, by furnishing a quotation, by exposing the goods for sale in association with a mark indicating price, or otherwise howsoever.

Prescribed date

(7) In this section—

“**prescribed date**”, in relation to the sale of any declared goods or the supply of any declared service, means such date as is declared to be the prescribed date in any order made with respect to those goods or that service under this Act.

44 Sale of declared goods with undeclared goods etc.

(1) It shall be a defence to a proceeding for an offence against section 43 if the party alleged to have committed that offence proves—

- (a) subject to paragraph (d), that the declared goods or declared service, or both, were or was sold or supplied with undeclared goods or an undeclared service, or both, at a total price; and

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- (b) that the price or rate for that portion of the total sale represented by the undeclared goods or undeclared service, as the case may be, was reasonable having regard to the cost or current market value of the undeclared goods or undeclared service; and
- (c) that the resultant price or rate for the transaction represented by the declared goods or declared service (as the case may be) was not greater than that fixed in relation thereto by or under this Act for the sale of those goods or the supply of that service; and
- (d) where the proceedings relate to declared goods or a declared service sold or supplied with any other goods or service—that the party did not refuse to sell or supply those declared goods or that declared service separately, or that the party had first obtained the consent in writing of the commissioner under section 42.⁴

(2) Subsection (1) shall apply so as not to limit the operation of section 42.

(3) In this section—

“undeclared goods” means goods other than declared goods.

“undeclared service” means service other than a declared service.

45 Offering to pay higher price for declared goods etc.

(1) A person shall not knowingly—

- (a) pay for or offer to pay for; or
- (b) hold himself or herself out as being willing to pay for, or to offer to pay for, or as being willing or able to obtain another person to pay for; or
- (c) offer to act in connection with the payment for;

any declared goods or declared service at a greater price or rate (whether by way of premium or otherwise howsoever) than the maximum price or rate fixed in relation thereto by or under this Act for the sale of those goods or the supply of that service.

(2) Where the maximum price or rate relevant to any prosecution for a contravention of this section is a price or rate fixed by notice in writing to

4 Section 42 (Sale of goods subject to condition to refund excess price prohibited)

any person or body or association of persons, it shall be a defence to the prosecution for the person charged to prove that the person was not aware of the fact that the price or rate had been so fixed.

46 Delivery of goods less in quantity or inferior in quality to those sold

(1) In relation to the sale of any declared goods the maximum price of which has been fixed by or under this Act, a person shall not, without the consent of the commissioner, deliver or offer to deliver, or knowingly accept, or offer to accept, delivery of—

- (a) a quantity of the goods less than the quantity agreed to be sold; or
- (b) goods inferior in quality to the goods agreed to be sold.

(2) However, where the agreement for the sale of the goods provides for delivery of the goods by instalments over a period, the goods may be so delivered if the whole of the goods are delivered within the time specified in the agreement.

48 Prosecutions where price fixed is lower or lowest of more than 1 price

Where a maximum price or rate fixed under this Act (whether before or after the commencement of this Act) is expressed to be the lower or lowest of 2 or more prices or rates, then for the purposes of any prosecution for a contravention of this Act, the prosecutor may, in the information or complaint, recite as that maximum price or rate any one of those prices or rates, and for the purposes of that prosecution (including the proof of the maximum price or rate so recited) and for any purpose arising out of that prosecution, the order or notice by which the maximum price or rate was so fixed shall be deemed to have fixed as the relevant maximum price or rate the price or rate so recited.

49 Meaning of terms

(1) In this Act and in any order made hereunder fixing the maximum price for the sale of any declared goods—

“landed cost” means the actual cost of landing the declared goods in the store in Queensland of the person to or for whom, or on whose behalf,

the declared goods were originally supplied or ordered or at such other point of delivery as is approved by the commissioner.

“retail”, in relation to any such sale, means a sale to a person for the purposes of consumption or use.

“wholesale”, in relation to any such sale, means the sale or supply to a person for the purpose of resale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer, or producer to a manufacturer or a wholesale or retail trader).

(2) The maximum price fixed shall be deemed to include any charge for wrapping the goods.

50 Alteration of size of containers or quantity or ingredients of declared goods

A person shall not, without the prior written consent of the commissioner—

- (a) pack or put up any declared goods in a container of a size smaller than the container ordinarily used by the person at the commencement of this Act; or
- (b) pack or put up in a container a quantity of declared goods smaller than the quantity ordinarily packed or put up by the person in a container of that size at the commencement of this Act; or
- (c) alter the formula or recipe ordinarily used by the person at the commencement of this Act in the manufacture or production of any declared goods; or
- (d) as regards any particular declared goods, manufacture the declared goods inferior in quality to the quality manufactured by the person or a predecessor in business on or immediately prior to the date of fixation, by order made under this Act or the Commonwealth regulations, of the maximum price of those declared goods; or
- (e) sell as declared goods any goods which are adulterated or which are falsely described, packed, or enclosed for sale or labelled as declared goods.

(2) For the purposes of this section, proof that at the commencement of this Act any person, dealing in the ordinary course of trade in any declared goods in respect of which any proceedings have been instituted, sold—

- (a) any declared goods purporting to have been packed or put up by the defendant in a container of a certain size—shall be evidence that that was the size of the container ordinarily used by the defendant at the commencement of this Act in the packing or putting up of the declared goods; or
- (b) any declared goods purporting to have been packed or put up by the defendant in a container containing a certain quantity of the goods—shall be evidence that that was the quantity ordinarily packed or put up by the defendant at the commencement of this Act in a container of that size; or
- (c) any declared goods (purporting to have been manufactured or produced by the defendant) which appear by analysis or otherwise to have been manufactured or produced in accordance with a certain formula or recipe—shall be evidence that that formula or recipe was that ordinarily used by the defendant at the commencement of this Act in the manufacture or production of the declared goods.

(3) It shall be a defence to a prosecution for an offence against the provisions of subsection (1)(c) if the defendant proves—

- (a) the alteration in the formula or recipe was not made in anticipation or consequence of any action under this Act in respect of the declared goods the formula or recipe of which was altered; and
- (b) the declared goods manufactured or produced in accordance with the formula or recipe as altered were not inferior to those manufactured or produced prior to the alteration.

53 Speculating in goods

(1) A person who is not a bona fide wholesale or retail trader or a bona fide consumer or user shall not purchase or agree to purchase or otherwise acquire (except by way of bona fide security only) any goods or any right or interest therein.

(2) In any prosecution for an offence against subsection (1) it shall be a sufficient defence to show that the purchase or agreement had not the object or the effect of increasing, directly or indirectly, the price of the goods to the consumer or user.

(3) This section shall not apply in relation to the purchase or acquisition of goods at a sale of those goods by auction upon the winding-up of a business.

54 Corners and restrictions on circulation of goods

A person shall not, with intent to corner the market or restrain trade therein, hold or buy up any goods and store or retain them in the person's possession or under the person's control, whether the maximum price thereof has or has not been fixed and declared under this Act.

55 Forfeiture of goods by Minister

(1) If the Minister, upon report by the commissioner, is satisfied that any person—

- (a) is buying up or storing or retaining in the person's possession or under the person's control any goods, whether a maximum price thereof has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein; or
- (b) has in the person's possession or under the person's control any such goods, and has failed, on demand and tender of the maximum price, to supply in accordance with the provisions of section 51 any particular person or persons with those goods; or
- (c) has purchased or acquired or agreed to purchase or acquire any such goods in contravention of section 54;

the Minister may make an order that the goods or any specified quantity thereof be forfeited; and upon publication of the order in the gazette the whole of the goods, or such specified quantity thereof, shall be forfeited to the Crown.

Forfeiture of goods by court

(2) In addition to any penalty that may be imposed for an offence against any provision of section 51, 52, 53 or 54 the court may order that the whole of the goods in respect of which the offence is committed, or such quantity thereof as the court so orders, shall be forfeited to the Crown.

Seizure and disposal of forfeited goods

(3) When any goods have been forfeited under this section of this Act any authorised officer may—

- (a) seize any goods which the authorised officer has reasonable cause to believe are forfeited under this Act; and
- (b) store any such goods in any place approved by the commissioner for the purpose; and
- (c) sell or otherwise dispose of the goods to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as the Minister directs.

56 Sales by auction

(1) The commissioner may, by order published in the gazette or by notice in writing to any person selling by auction any declared goods, prohibit such sale or permit such sale on such terms and conditions as the commissioner thinks fit.

(2) A person shall not sell by auction any declared goods in contravention of any order or notice under this section.

57 Payment to former owner of whole or portion of proceeds of sale

When any forfeited goods have been sold under section 55(3)(c),⁵ the Minister may, under special circumstances, direct that the whole or any portion of the proceeds of the sale of the goods, less any expenses incurred in connection with their seizure, storage, and sale, be returned to the person who was the owner of the goods prior to their forfeiture.

58 Power of an authorised officer etc. to search for goods

Any authorised officer may at any time in the day or night enter into and search any premises or vessel or part thereof where any goods forfeited or liable to seizure under this Act are, or are supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises or vessel or part, and may break open and search any chests, trunks, packages, or other things in which any such goods are or are supposed to be.

5 Section 55 (Forfeiture of goods by Minister)

59 Power of the Minister to requisition goods

(1) Where the Minister, after receipt of a report from the commissioner, is satisfied that it is necessary or expedient so to do in order to ensure the fair distribution of goods amongst all members of the community, the Minister may, by notice published in the gazette or given to any person or persons, direct all or any persons who, whether as owners or otherwise, have in their possession or under their control any specified goods to retain and hold the goods, or a specified quantity thereof, for and on behalf of Her Majesty.

(2) Upon the publication or giving of the notice, the title to and property in the goods or the quantity thereof shall be divested from the owners thereof and become vested in Her Majesty freed from any charge thereon and from any claim, contractual or otherwise, and the holders or owners of the goods shall thereupon be discharged from any other contractual engagements whatsoever in respect thereof; and the title and property of the owners shall be converted into a right to receive payment of the value of the goods or the quantity thereof as hereinafter provided.

(3) All such persons, and their agents and servants, shall, without delay, obstruction, or objection, give immediate and peaceable possession of the goods or the quantity thereof to the Minister or to any authorised officer.

(4) The production of any document or telegram purporting to be a demand or an authority to demand such goods, or quantity thereof, and to be signed or sent by the Minister or the commissioner shall be sufficient authority for the delivery of the goods, or quantity thereof, to which the document or telegram relates.

(5) The owner of the goods, or quantity thereof, shall be entitled to be paid therefor by the Crown—

- (a) at such price as is mutually agreed upon between the Minister and that owner; or
- (b) in default of such agreement, at such price as is determined by the commissioner after hearing the parties concerned.

(6) In the event of any doubt or dispute arising as to the person legally entitled to receive any moneys payable under this section or as to any charge thereon or claim in respect thereof, the Minister may, in default of agreement between the parties concerned, pay the same to the public trustee, to abide such order as may be made by the Supreme Court.

(7) A person shall not, after the publication or giving of any notice—

- (a) attempt to dispose of or in any way deal with the goods, or the quantity thereof, to the prejudice of Her Majesty's rights and powers under this section; or
- (b) refuse to deliver, or delay, or obstruct the delivery as prescribed of the goods, or the quantity thereof.

(8) Where any goods have been acquired under the provisions of this section, the Minister may store, sell, or otherwise dispose of the goods to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as the Minister thinks fit.

PART 4—COMBINES AND MONOPOLIES

60 Meaning of terms used in this part

(1) In this part—

“association” includes the union of any number of persons by or under any agreement or trust, whether temporary or permanent, and whether legally valid or not, and whether including any scheme of organisation or common management or control or not.

“commercial trust” means any association or combination (whether incorporated or not) of any number of persons established, whether before or after the commencement of this Act, in Queensland or elsewhere which carries on business in or acts in Queensland, and has as its object or purpose or as one of its objects or purposes—

- (a) controlling, determining, or influencing the supply or demand or price of or for any goods in Queensland or in any part thereof; or
- (b) creating or maintaining in Queensland or in any part thereof a monopoly, whether complete or partial, in the supply of or demand for any goods.

“member of a commercial trust” means any of the constituent persons of or any agent of that trust, and where any such constituent person or agent is a corporation, firm, or association, includes every member or agent of that corporation, firm, or association.

(2) This part applies to all goods, whether declared goods or not.

61 Illegal concessions

A person shall be guilty of an offence against this part who, either as principal or agent, in respect of dealings in any goods gives, or offers, promises, or agrees to give, to any other person any rebate, refund, discount, concession, allowance, reward, or other valuable consideration, for the reason, or upon the express or implied condition, that the latter person—

- (a) deals or has dealt, or will deal or intends or undertakes or has undertaken or will undertake to deal, exclusively or principally or to such an extent as amounts to exclusive or principal dealing with any person or class of persons, or with a commercial trust or the members or any member thereof, either in relation to any particular goods or generally, if such dealing is or is calculated to be contrary to the public interest; or
- (b) does not deal or has not dealt, or will not deal or intends or undertakes or has undertaken or will undertake not to deal, with any person or class of persons either in relation to any particular goods or generally, if such refraining from dealing is or is calculated to be contrary to the public interest; or
- (c) restricts or has restricted, or will restrict or intends or undertakes or has undertaken or will undertake to restrict, the person's dealings with any person or class of persons either in relation to any particular goods or generally, if such restriction in dealing is or is calculated to be contrary to the public interest; or
- (d) is or becomes, or has been or has undertaken or will undertake to become, a member of a commercial trust; or
- (e) acts or has acted, or will act or intends or undertakes or has undertaken or will undertake to act, in obedience to or in conformity with the directions of a commercial trust with respect to the sale, purchase, or supply of any particular goods or generally.

62 Illegal refusals to deal

(1) A person shall be guilty of an offence against this part who either as principal or agent refuses, either absolutely or except upon disadvantageous or relatively disadvantageous conditions, to sell or supply to any other person or to purchase from any other person any goods—

- (a) for the reason that the latter person—

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- (i) deals or has dealt, or will deal or intends to deal, or has not undertaken or will not undertake not to deal, with any person or class of persons or with a commercial trust or the members or any member thereof, either in relation to any particular goods or generally, if such conditions or if such dealing or refraining from dealing are or is, or are or is calculated to be, contrary to the public interest; or
 - (ii) is not or has not been, or will not become or undertake to become or has not undertaken to become, a member of a commercial trust; or
 - (iii) does not act, or has not acted, or will not act, or does not intend to act, or has not undertaken or will not undertake to act, in obedience to or in conformity with the directions of a commercial trust with respect to the sale, purchase, or supply of any particular goods or generally; or
- (b) in obedience to or in consequence of or in conformity with the directions of a commercial trust or of an association.

(2) A person shall be guilty of an offence against this part who, either as principal or agent—

- (a) sells or supplies to any other person any goods upon a condition that such other person will not sell or supply those goods at a price less than a stipulated sum; or
- (b) refuses on demand by any other person to sell or supply to that other person any goods except upon a condition that such other person will not sell or supply those goods at a price less than a stipulated sum.

63 Illegal monopolies

A person shall be guilty of an offence against this part who—

- (a) monopolises or attempts to monopolise, or combines or conspires with any other person to monopolise, wholly or partially, the demand for or supply of any goods in Queensland or in any part of Queensland; or
- (b) combines or conspires with any other person to control, wholly or partially, the demand for or supply or price of any goods in Queensland or in any part of Queensland;

if such monopoly or control is of such a nature as to be contrary to the public interest.

64 Sales at price fixed by a commercial trust

(1) A person shall be guilty of an offence against this part who either as principal or agent sells or supplies any goods—

- (a) if the price of those goods has been in any manner directly or indirectly determined, controlled, or influenced by any commercial trust of which that person or the person's principal (if any) is or has been a member; or
- (b) in obedience to or in consequence of or in conformity with any directions of a commercial trust or of an association, whether the person or the person's principal (if any) is a member of that trust or not.

(2) If the person committing such offence is a commercial trust, then every person who is then a member of that trust is also deemed to have committed the offence.

(3) Moreover, if in any case the commercial trust is a corporation, the liability of the trust does not exclude or affect the liability of its members.

65 Penalty for offences against this part

(1) Any person guilty of an offence against this part shall be liable to a penalty as follows—

- (a) if the offence is prosecuted summarily—a penalty not exceeding \$2 000 or imprisonment for a term not exceeding 12 months, or, if the offender is a body corporate, a penalty not exceeding \$10 000;
- (b) if the offence is prosecuted on indictment—a penalty not exceeding \$4 000 or imprisonment for a term not exceeding 2 years, or, if the offender is a body corporate, a penalty not exceeding \$20 000.

(2) Where an act or omission is an offence both under a provision of this part and under a provision of some other part of this Act, the offender may be prosecuted under either such provision but the offender shall not be twice punished under this Act for that offence.

(3) Subject to subsection (2), every provision of this part shall be read so as neither to limit the application of, nor to be limited in its application by, any provision of any other part of this Act.

PART 5—LAND SALES

66 Meaning of terms

In this part—

“approved valuer” means—

- (a) the chief executive of the department in which the *Valuation of Land Act 1944* is administered;
- (b) any other person who is an approved valuer of property for the purposes of the *Succession and Probate Duties Act 1892*, or a member of the Commonwealth Institute of Valuers Incorporated and who is for the time being approved by the Governor in Council by order in council as a valuer for the purposes of this Act, and, unless and until the Governor in Council otherwise declares by order in council, includes any person approved as an approved valuer at the expiration of the Commonwealth Economic Organisation Regulations under the corresponding provision of those regulations.

“Commonwealth Economic Organisation Regulations” means the provisions of the National Security (Economic Organisation) Regulations (Cwlth) corresponding to this part, and the term **“expiration”** where used in reference to those regulations means ended (as respects the application of those regulations to transactions or proposed transactions to which this part applies) by repeal or revocation, or by effluxion of time, or otherwise howsoever.

“country land” means land used for agricultural, pastoral, horticultural, viticultural, apicultural, dairy farming, poultry farming, or other like purposes.

67 Certain land transactions forbidden

(1) Except as provided by this part, a person shall not, without the consent in writing of the commissioner—

- (a) purchase any land; or
- (b) take an option for the purchase of any land; or
- (c) take any lease of land; or
- (d) take a transfer or assignment of any lease of land; or
- (e) otherwise acquire any land.

(2) Nothing in this part shall prevent—

- (a) the taking of a lease of land (other than country land) to be used by the lessee where the term of the lease does not exceed 3 years and is to commence not more than 3 months after the date of the lease; or
- (b) the taking of a transfer or assignment of a lease of land (other than country land) to be used by the transferee or assignee where the unexpired portion of the term of the lease does not exceed 3 years; or
- (c) the taking of an option for the purchase of any land where the period within which the option may be exercised is limited to 1 month after the taking of the option; or
- (d) the acquisition of land by way of gift; or
- (e) any transaction to which the Commonwealth or this State, or any authority of the Commonwealth or of this State, or to which any person acting on behalf of the Commonwealth or of this State (other than the public trustee except when acting under the *Public Trustee Act 1978*, section 28⁶) is a party; or
- (f) the acquisition of land on sale under a writ or warrant of execution issued out of any court; or
- (g) any transaction by way of renewal or extension of a lease which was in existence prior to 20 February 1942, where the rent under the lease as renewed or extended does not exceed the rent payable under the lease prior to the renewal or extension; or

6 *Public Trustee Act 1978*, section 28 (The public trustee may hold as trustee for the Crown)

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- (h) any transaction to give effect to a contract or agreement in writing entered into prior to 20 February 1942; or
- (i) the exercise of any option in writing given before that date; or
- (j) any transaction—
 - (i) by way of mortgage or submortgage;
 - (ii) by way of discharge of a mortgage or submortgage;
 - (iii) by way of transfer or assignment of a mortgage to a guarantor who, in pursuance of the terms of the guarantor's guarantee, has repaid the whole or part of the moneys due under the mortgage;
 - (iv) by way of partition between co-owners or pursuant to an order of a court of competent jurisdiction;
 - (v) by way of deed of family arrangement between beneficiaries under a will or settlement; or
- (k) the vesting in the personal representative of a deceased person, in the representative's capacity as such, of any property or any interest in any property of that deceased person; or
- (l) any transaction which vests any property, or any interest in property of a deceased person or bankrupt in any trustee of the estate of that deceased person, in a trustee in bankruptcy, or in any new trustee under any instrument, in the trustee's capacity as trustee; or
- (m) any transaction which is without consideration in money or money's worth and the purpose of which is to vest any property, or any interest in property, in any person beneficially entitled thereto under or by virtue of any will or intestacy; or
- (n) the execution of any deed of assignment under the *Bankruptcy Act 1924* (Cwlth), part 11, or of any deed of arrangement under part 12 of that Act; or
- (o) any other transaction or class of transactions specified by the Governor in Council by order in council published in the gazette.

68 Applications for consent and valuations

(1) Every application for the consent of the commissioner under this part—

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- (a) shall be in writing; and
- (b) shall be in or to the effect of the prescribed form; and
- (c) shall be signed by the applicant; and
- (d) shall contain or be accompanied by such information or particulars as are prescribed or, in so far as not prescribed, directed by the commissioner, including full particulars of any option granted to or by the applicant or the wife or husband of the applicant in relation to the land; and
- (e) shall be accompanied by the valuation of the land by an independent approved valuer unless, in special circumstances, the commissioner dispenses with such a valuation.

(2) The commissioner is hereby authorised to require the applicant to furnish the commissioner with all such further information and particulars, additional to the information and particulars contained in or accompanying the application, as the commissioner shall think necessary or desirable in the circumstances.

(2A) Further information and particulars may be so required in relation to both the proposed transaction and to any transaction connected therewith or which, in the opinion of the commissioner, is connected therewith.

(3) A valuation furnished under this section—

- (a) if the proposed transaction is the purchase of any land—shall specify the amount which would have been a fair and reasonable price for the land as at 10 February 1942, or, if the valuation is a valuation by the chief executive of the department in which the *Valuation of Land Act 1944* is administered, may be the last valuation of the land made by the that chief executive; and
- (b) in any other case—shall specify the value of the subject matter of the transaction as at a date specified by the Minister.

(4) Where the commissioner is not satisfied with any valuation furnished under this section, the commissioner may—

- (a) require the valuer to furnish such information concerning the valuation as the commissioner specifies; and
- (b) require to be furnished to the commissioner a further valuation by an approved valuer nominated by the commissioner.

(5) If an applicant for the commissioner's consent under this section fails to furnish full and correct particulars (including the amount of the

consideration paid or payable) of any option which has been granted to or by the applicant, or to the wife or husband of the applicant, in relation to the land or lease specified in the application any consent given under this section to the transaction the subject of the application shall be void and of no effect.

69 Transactions made subject to consent

(1) A transaction to which the consent of the commissioner is required under this part may be entered into subject to a condition that such transaction shall become and be null and void unless the commissioner shall consent thereto, if, but only if—

- (a) that transaction is in writing duly executed by all parties thereto; and
- (b) the aforementioned condition is stated in the writing constituting the transaction; and
- (c) (if all parties thereto have agreed upon a period at the expiration of which the transaction shall become null and void unless the commissioner has consented thereto) the period so agreed upon is stated in the writing constituting the transaction; and
- (d) application for the consent of the commissioner is made within 3 months after the date of the transaction.

(1A) Every such transaction shall become and be null and void on and from the expiration of—

- (a) the period agreed upon by all parties—if that period is stated in the writing constituting the transaction; or
- (b) the period of 6 months next succeeding the date of the transaction—if some other period as agreed upon by all parties thereto is not stated in the writing constituting the transaction;

unless the commissioner shall have sooner consented to that transaction.

(1B) However, if the commissioner has sooner refused to consent to any such transaction, that transaction shall become and be null and void on and from the date of that refusal.

(2) Where the consent of the commissioner to any transaction referred to in this section is granted subject to any conditions, then if all parties to the transaction fail, within 1 month after the date of the consent or such longer period as the commissioner may allow, to agree in writing duly executed

by them to such variation, amendment or other modification of the transaction as is necessary to comply in full with such conditions, the transaction shall become and be null and void.

(3) An application for the consent of the commissioner to any transaction to which this section applied shall be made within 3 months after the date of the transaction and section 68 shall, subject to any necessary adaptations, apply accordingly.

(3A) If the application is not duly made, or any provision of section 68 is not duly complied with in respect of the application, every party to the transaction shall be guilty of an offence against this Act.

(3B) However, it shall be a defence to any party charged with an offence against subsection (3A) to prove that the party was prevented from making the application or, as the case may be, from complying with the provision in question of section 68 by some act or omission of another party to the transaction.

(4) If a transaction referred to in this section becomes null and void, any party thereto who, at any time on or after the date upon which that transaction becomes null and void, takes any step, or does any act, matter, or thing to give effect to or to continue that transaction shall be guilty of an offence against this Act.

(5) This section shall apply so as not to affect any right had by any party to recover, in the event of a transaction becoming null and void, any sum paid by the party in relation to that transaction.

(6) Any period of time specified in this section may be extended by the commissioner or, as respects any transaction which is the subject of proceedings in any court, by that court, where the court deems the extension necessary to enable justice to be done to the parties to the proceedings.

70 Power of commissioner to refuse consent

(1) Notwithstanding anything contained in this part, except for the purpose of giving effect to a policy of—

- (a) preventing or limiting increases in prices of land; or
- (b) preventing or limiting increases in rates of interest;

the commissioner shall not refuse to grant consent under this part or make the granting of consent under this part subject to any condition.

(2) However, the aforesaid power of the commissioner to refuse to grant a consent or to grant a consent subject to conditions shall be in the commissioner's absolute discretion.

71 Exemptions

(1) Land which or any part of which is assigned to a sugar-mill shall be exempted from the provisions of this part.

(1A) However, where part only of any land is so assigned, such exemption shall not apply as respects any transaction in relation to any part of that land which is not so assigned.

(2) The Governor in Council may from time to time by order in council exempt (either unconditionally or subject to such conditions as are specified in the order in council in question) from the application of the whole or any of the provisions of this part any person or class of persons or any transaction or class of transactions or any land or class of land.

(2A) Any such exemption may be general or may relate to any part of the State specified in the order in council in question.

(3) Any order made under regulation 9(1) of the Commonwealth Economic Organisation Regulations and in force in this State immediately before the expiration of those regulations shall continue in force in all respects as if such order were an order in council made under this section, and may be rescinded, varied, or amended accordingly by order in council made under this section.

72 Conditions of consent or exemption to be complied with

(1) Where any consent or exemption under this part is granted subject to conditions, a person who contravenes or fails to comply with any such condition which is applicable to the person shall be guilty of an offence against this Act.

(2) Where any consent or exemption under any provision of the Commonwealth Economic Organisation Regulations corresponding to a provision of this part was granted subject to conditions, a person who, at any time after the commencement of this Act, when that corresponding provision of this Act applies to like consents or exemptions, contravenes or fails to comply with any such condition which is applicable to the person shall be guilty of an offence against this Act.

73 Validation of transactions

(1) Subject to section 69,⁷ where any transaction is entered into in contravention of this part, or where any condition to which the transaction is subject is not complied with, the transaction shall not thereby be invalidated, and the rights, powers, and remedies of any person thereunder shall be the same as if this part had not been enacted.

(2) Nothing in this section shall affect the liability of any person to any penalty in respect of any offence against any provision of this part.

74 Registrar of titles may require evidence that transactions are not in contravention of part

The registrar of titles or any other person or authority charged with the registration of instruments of title to any land may, upon submission to the registrar of titles for registration of any instrument relating to a transaction in connection with any land, require such evidence as the registrar of titles deems necessary that the transaction to which the instrument relates is not in contravention of any provision of this part (or, in the case of an instrument so submitted on or after the commencement of this Act in relation to a transaction entered into prior to the expiration of the Commonwealth Economic Organisation Regulations, that the requirements of those regulations have been complied with in respect of that transaction) and may refuse to register the instrument until such evidence is submitted to the registrar of titles.

75 Excess consideration may be recovered

(1) Where consent has been given under this part, or under the Commonwealth Economic Organisation Regulations, to any transaction or proposed transaction, and the person from whom the land, option, or lease is to be or has been purchased, taken, or otherwise acquired accepts or has accepted in respect of the transaction or proposed transaction any consideration in excess of the consideration provided for in the terms of the transaction or proposed transaction as so consented to, the person who has paid or given the excess consideration may (provided that such acceptance occurs or has occurred on or after the commencement of this Act in the case of a transaction or proposed transaction consented to under the abovementioned regulations), notwithstanding that the person is or may be

7 Section 69 (Transactions made subject to consent)

concerned in a contravention of this part in relation to the transaction, but subject to subsection (2), recover the amount or value of the excess consideration as a debt from the person to whom it was so paid or given by action in any court of competent jurisdiction.

(2) The court in which any such action is brought may, if, in its discretion, it considers that the circumstances of the case so warrant, refuse to give judgment for the plaintiff, or give judgment for the plaintiff in respect of part only of the amount or value of the excess consideration.

77 Power of the commissioner to obtain information

(1) The commissioner may, by order, require any person—

- (a) to furnish to the commissioner, or to such other person as the commissioner directs, such information as the commissioner or that other person requires; and
- (b) to attend and give evidence before the commissioner or such other person as the commissioner directs;

with respect to any act, transaction, matter, or thing prohibited by this part or to which any provision of this part applies, and may require the person to produce all books, documents, and other papers whatever in the person's custody or under the person's control relating thereto.

(2) The commissioner may require the information or evidence to be given on oath or affirmation and either orally or in writing and for that purpose the commissioner or person before whom the evidence is given may administer an oath.

(3) The commissioner may require that any information or particulars required to be furnished to the commissioner or to any person under this Act shall be verified by statutory declaration.

78 Offences against part 5

Any person who—

- (a) makes to the commissioner or to any person having duties under this part any statement, whether oral or in writing, relating to any matter dealt with or arising under this part which the person knows to be untrue in any particular or which is made by the person without the person having first made proper inquiries to ascertain the truth thereof; or

- (b) enters into any contract or agreement purporting to do, whether presently or at some future time or upon the happening of any contingency, anything forbidden by this part; or
- (c) enters into any transaction or makes any contract or arrangement, whether orally or in writing, for the purpose of or which has the effect of in any way whether directly or indirectly defeating or evading or preventing the operation of this part in any respect; or
- (d) refuses or fails to comply with any requirement of the commissioner under section 77;

shall be guilty of an offence against this Act.

79 Transactions made prior to commencement of Act

(1) In this section—

“the treasurer” means the Treasurer of the Commonwealth and any delegate appointed by the treasurer to exercise in Queensland any of the treasurer’s powers and functions under the Commonwealth Economic Organisation Regulations.

(2) Where the treasurer has refused (whether before or after the commencement of this Act) to consent to any transaction entered into at any time prior to the expiration of the Commonwealth Economic Organisation Regulations when those regulations applied to that transaction, any person who—

- (a) at any time after the commencement of this Act; or
- (b) if the treasurer refuses as aforesaid after the commencement of this Act—at any time after the date of such refusal;

when this part applies to like transactions, takes any step or does any act, matter, or thing to give effect to or to continue that transaction, shall be guilty of an offence against this Act.

(3) Where the treasurer has consented (whether before or after the commencement of this Act) subject to any condition to a transaction entered into at any time prior to the expiration of the Commonwealth Economic Organisation Regulations when those regulations applied to that transaction, any person who—

- (a) at any time after the commencement of this Act; or
- (b) if the treasurer consents as aforesaid after the commencement of this Act—at any time after the date of such consent;

when this part applies to like transactions, contravenes or fails to comply in any respect with that condition, shall be guilty of an offence against this Act.

(4) To the extent to which any law of the Commonwealth continues to provide for any of the subject matters of this section, this section shall be read subject to that Commonwealth law.

PART 6—GENERAL

80 War service land settlement

(1) The Governor in Council may, from time to time, by order in council, declare country land specified in the order to be land suitable for settlement by former members of the Defence Force.

(2) Any order made by the appropriate Minister under the Commonwealth Economic Organisation Regulations, regulation 6A(1), and in force in this State immediately before the expiration of that regulation, shall continue in force and shall be deemed to have been made under subsection (1).

(3) Any order made or deemed to have been made under this section may be revoked by the Governor in Council by order in council.

(4) The commissioner shall not grant consent to an application under part 5⁸ relating to land specified in any such order if the commissioner is satisfied, after consultation with the Secretary for Public Lands, that the land is likely to be required for settlement by former members of the Defence Force.

(5) In this section—

“**country land**” means land used for agricultural, pastoral, horticultural, viticultural, apicultural, dairy farming, poultry farming, or other like purposes.

81 Manner in which notice in writing may be given

(1) A notice in writing for the purposes of this Act may be given—

- (a) to any person, by delivering it by hand or by sending it by post in a letter addressed to that person at the person's last known or usual place of abode or place of business; or
- (b) to any body or association of persons, by delivering it by hand to the secretary or other proper officer of the body or association, or by sending it by post in a letter addressed to the person at the last known or usual place of business of the body or association; or
- (c) to persons generally or to persons included in a class of persons or to persons in any area, by publication of the notice in the gazette.

Evidence

(2) In any prosecution for an offence against this Act a certificate under the hand of the commissioner or of any person to whom the commissioner has made a delegation under this Act that a document annexed to the certificate is a true copy of a letter or notice sent by the commissioner or by that person, as the case may be, to the defendant shall be evidence (and in the absence of evidence in rebuttal shall be conclusive evidence) of the matters certified to and that the original letter or notice of which the document purports to be a copy was received by the defendant on or about the time at which it would be delivered in the ordinary course of post if it had been posted on the date borne by the document, and that the signature on the certificate is the signature of the person by whom it purports to have been signed.

82 Evidence of maximum price or maximum rate

A certificate signed by the commissioner or by a delegate of the commissioner stating that the price or rate set out in that certificate was the maximum price or rate fixed by or under this Act for those goods or that service at the time specified in the certificate shall be evidence of the facts certified to therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of those facts.

82A Mode of proving orders, and notices made or given by commissioner

In any proceeding under or for a purpose of this Act—

- (a) the production in evidence of a copy of the gazette purporting to contain an order or notice made or given by the commissioner or a delegate of the commissioner under this Act shall be conclusive evidence of the making or giving by the commissioner or, as the case may be, delegate in question of that order or notice and of the contents thereof; and
- (b) the production in evidence of a paper purporting to be a copy of such an order or notice and purporting to be printed by the government printer shall be evidence of the making or giving by the commissioner or, as the case may be, delegate in question of the commissioner of that order or notice and of the contents thereof and, in the absence of evidence in rebuttal, shall be conclusive evidence of those matters.

83 Knowledge of maximum price or maximum rate

Where the matter of any maximum price or maximum rate fixed by or under this Act for any declared goods or any declared service is relevant in any prosecution for an offence against any provision of this Act, it shall not be necessary to prove that the defendant knew that maximum price or maximum rate, and it shall not be a defence for the defendant to prove that the defendant did not know that maximum price or maximum rate.

84 Destroying and concealing documents etc.

Any person who, with intent to evade any provision of this Act, destroys, mutilates, defaces, falsifies, conceals, or removes any book, instrument, document, account, stock or costing record, or other paper (including, but without limiting the generality of the foregoing provisions of this section, any instrument, document, or paper relating to a transaction to which part 5⁹ applies) shall be guilty of an offence against this Act.

85 Assaulting, hindering etc. commissioner or other person acting in the execution of this Act

A person shall not assault, hinder, obstruct, or interfere with, or attempt to assault, hinder, obstruct, or interfere with, the commissioner or any

9 Part 5 (Land sales)

authorised officer or other person whomsoever in the execution of any of the commissioner's functions, powers, or duties under this Act.

86 Offences and penalties

(1) Any person who contravenes or fails to comply with any provision of this Act or of any order, direction, requirement, or other instrument made or given under this Act shall be guilty of an offence against this Act.

(2) Any person guilty of an offence against this Act shall be liable, unless some specific penalty is prescribed by this Act for that offence—

- (a) if the offence is prosecuted summarily—to a penalty not exceeding \$1 000 or imprisonment for a term not exceeding 12 months, or, if the offender is a body corporate, a penalty not exceeding \$4 000; or
- (b) if the offence is prosecuted on indictment—to a penalty not exceeding \$2 000, or to imprisonment for a term not exceeding 2 years or, if the offender is a body corporate, to a penalty not exceeding \$10 000.

(3) Where an offence against this Act is committed by a body corporate, every person who at the time of the commission of the offence was a director or a member of the governing body by whatever name called, or an officer of the body corporate shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment, provided by this Act in the case of such an offence by a person other than a body corporate accordingly, unless the person proves that the offence was committed without the person's knowledge, and that the person used all due diligence to prevent the commission of the offence.

(4) Any offence against this Act may be prosecuted in a summary way under the *Justices Act 1886*, upon the complaint of any inspector or, with the written consent of the Minister, of any other person, or upon indictment.

(4A) However, every offence against this Act shall be prosecuted in a summary way unless the Minister directs that such offence be prosecuted upon indictment.

(5) A prosecution in a summary way for an offence against this Act may be instituted at any time within 1 year after the commission of the offence, or within 6 months after the discovery thereof by the complainant, whichever is the later period.

87 Joint offences

(1) Where an offence against a provision of part 3¹⁰ is constituted by any act or omission, or by 1 or more of a series of acts or omissions, or by matters of complaint, or by any 1 or more of the matters of complaint which constitute an offence against a provision of part 4,¹¹ a person charged upon indictment or complaint with that offence against part 4 may be convicted of the offence against part 3, if that lastmentioned offence is established by the evidence.

(2) This section shall be in addition to and not in derogation of any provision of the Criminal Code.

88 Orders in council, orders etc.

(1) The power of the Governor in Council to make any order in council under this Act shall include power to make from time to time all such orders in council as the Governor in Council shall deem necessary or expedient.

(1A) The Governor in Council may from time to time by order in council revoke, vary, amend, or otherwise modify any order in council made by the Governor in Council under this Act.

(2) The power of the commissioner to make or give any order, direction, requirement, or notice under this Act shall include power to make or give from time to time all such orders, directions, requirements, or notices as the commissioner shall deem necessary or expedient.

(2A) The commissioner may from time to time by a further order, direction, requirement, or, as the case may be, notice revoke, vary, amend, or otherwise modify an order, direction, requirement, or notice made or given by the commissioner under this Act.

(3) No misnomer or inaccurate description or omission contained in any order in council, order, direction, requirement, or notice made or given by the commissioner under this Act shall in anywise prevent or abridge the operation of this Act with respect to the subject matter of such order in council, order, direction, requirement, or, as the case may be, notice, provided that the same is designated so as to be understood.

10 Part 3 (Maximum prices and rates for goods and services)

11 Part 4 (Combines and monopolies)

89 Application of the Acts Interpretation Act 1954

Where any—

- (a) order in council; or
- (b) order, direction, requirement, or notice made or given under this Act in relation to any declared goods or declared service;

is revoked, in whole or in part, the *Acts Interpretation Act 1954* shall apply as if that order in council or, as the case may be, order, direction, requirement, or notice were an Act.

90 Regulations

The Governor in Council may from time to time make regulations for or with respect to prescribing all matters and things which are by this Act permitted or required to be prescribed (excepting any such matter or thing required by this Act to be otherwise prescribed) or which are necessary or expedient to be prescribed for giving effect to this Act.

91 Publication of orders in council and regulations

(1) Every proclamation, order in council, or regulation made under this Act shall—

- (a) be published in the gazette; and
- (b) shall, upon its publication in the gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein; and
- (c) take effect from the date of such publication, or in the case of any such regulation, if a later date is specified in the regulations, from that later date; and
- (d) be laid before Parliament within 14 sitting days after such publication if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

(2) If Parliament passes a resolution of which notice has been given at any time within 14 sitting days after any such proclamation, order in council, or regulation has been laid before Parliament disallowing such proclamation, order in council, or regulation or part thereof, that proclamation, order in council, or regulation or part shall thereupon cease

Profiteering Prevention Act 1948

to have effect, but without prejudice to the validity of anything done in the meantime.

SCHEDULE

Profiteering Prevention Act 1948

section 15(1)

DECLARATION OF SECRECY

I, _____, of _____, in the State of Queensland, do solemnly and sincerely declare that, except in the course of my duty under the *Profiteering Prevention Act 1948*, I will not directly or indirectly communicate or divulge any information relating to any matter which comes to my knowledge in consequence of my employment for the purposes of that Act.

.....

Declared at

this _____ day of _____, 19 .

Before me—

.....

Justice of the Peace

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 September 2002.

3 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|--------|---|
| AIA | = Acts Interpretation Act 1954 | prev | = previous |
| amd | = amended | (prev) | = previously |
| amdt | = amendment | proc | = proclamation |
| ch | = chapter | prov | = provision |
| def | = definition | pt | = part |
| div | = division | pubd | = published |
| exp | = expires/expired | R[X] | = Reprint No.[X] |
| gaz | = gazette | RA | = Reprints Act 1992 |
| hdg | = heading | reloc | = relocated |
| ins | = inserted | renum | = renumbered |
| lap | = lapsed | rep | = repealed |
| notfd | = notified | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2002 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

| Reprint No. | Amendments included | Reprint date |
|-------------|-----------------------|-----------------|
| 1 | to Act No. 87 of 1994 | 18 January 1996 |
| 1A | to Act No. 37 of 1996 | 21 January 1997 |
| 2 | to Act No. 37 of 1996 | 26 June 1998 |
| 3 | to Act No. 5 of 2000 | 7 April 2000 |

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed citations and remade laws | 1 |
| Changed names and titles | 1 |
| Comparative legislation | 1 |
| Corrected minor errors | 1 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

Profiteering Prevention Act 1948 12 Geo 6 No. 34

date of assent 17 September 1948

s 76 never proclaimed into force and om 1994 No. 87 s 3 sch 3 pt 1

remaining provisions commenced 20 September 1948 (proc pubd gaz
18 September 1948 p 1967)

rep 24 September 2002 (2002 No. 52 s 18)

amending legislation—

Profiteering Prevention Act Amendment Act 1954 3 Eliz 2 No. 31

date of assent 28 October 1954

commenced on date of assent

Profiteering Prevention Acts Amendment Act 1957 6 Eliz 2 No. 27

date of assent 9 December 1957

commenced on date of assent

Profiteering Prevention Acts Amendment Act 1959 8 Eliz 2 No. 48

date of assent 9 December 1959

commenced on date of assent

Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 6

date of assent 14 November 1990

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3, sch 3 pt 1

date of assent 1 December 1994

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

7 List of annotations

Short title

s 1 amd R1 (see RA s 37)

Parts of Act

s 3 om R1 (see RA s 36)

Repeal of 10 Geo V. No. 33 and amendments

s 4 om R1 (see RA s 40)

Meaning of terms

s 6 amd 1954 3 Eliz 2 No. 31 s 2(a); R1 (see RA s 39)

def “**board**” sub 1957 6 Eliz 2 No. 27 s 2def “**Director-General**” ins 1990 No. 80 s 3 sch 6

om R1 (see RA s 39)

def “**Local Authority**” om R1 (see RA s 39)def “**Minister**” sub 1990 No. 80 s 3 sch 6

om R1 (see RA s 39)

def “**Part**” om R1 (see RA s 39)def “**Person**” om R1 (see RA s 39)def “**Prescribed**” om R1 (see RA s 39)def “**Regulations**” om R1 (see RA s 39)def “**This Act**” amd 1954 3 Eliz 2 No. 31 s 2(b)

om R1 (see RA s 39)

Prices advisory board

s 8 sub 1957 6 Eliz 2 No. 27 s 3

amd 1990 No. 80 s 3 sch 6

Functions of the board

s 9 sub 1957 6 Eliz 2 No. 27 s 4

Prices commissioner employed under Public Service Act

s 10 sub 1996 No. 37 s 147 sch 2

Inspectors and other officers employed under Public Service Act

s 13 sub 1996 No. 37 s 147 sch 2

Declarations of secrecy

s 15 amd 1957 6 Eliz 2 No. 27 s 5; 1990 No. 80 s 3 sch 6

Power of the commissioner etc. to obtain information

s 21 amd 1954 3 Eliz 2 No. 31 s 3

Production of balance sheets and other accounts and statements

s 22 amd 1954 3 Eliz 2 No. 31 s 4

Goods to be sold by unit of number, or weight, or measure to which maximum price is related

s 27A ins 1954 3 Eliz 2 No. 31 s 5

Power of the commissioner to prohibit sale of goods or supply of services before maximum price or rate fixed

s 32 amd 1954 3 Eliz 2 No. 31 s 6

Inter-wholesale transactions

s 33 amd 1954 3 Eliz 2 No. 31 s 7

Inter-retail transactions

s 34 amd 1954 3 Eliz 2 No. 31 s 8

Delivery of invoice or docket with goods

prov hdg amd 1954 3 Eliz 2 No. 31 s 9(2)

s 35 amd 1954 3 Eliz 2 No. 31 s 9(1)

Misleading publicity respecting reductions in prices of goods and rates for services, prohibited

s 39A ins 1954 3 Eliz 2 No. 31 s 10

Production of genuine invoices as evidence

s 47 om 1954 3 Eliz 2 No. 31 s 11

Refusal, &c., to sell at fixed prices

s 51 om 1959 8 Eliz 2 No. 48 s 2

When reasonable quantity of goods to be supplied on demand

s 52 om 1959 8 Eliz 2 No. 48 s 3

Forfeiture of goods by Minister

s 55 amd 2000 No. 5 s 373 sch 2

Power of an authorised officer etc. to search for goods

s 58 amd 2000 No. 5 s 373 sch 2

Disposal of residential businesses

s 76 om 1994 No. 87 s 3 sch 3 pt 1

Mode of proving orders, and notices made or given by commissioner

s 82A ins 1954 3 Eliz 2 No. 31 s 12

Offences and penalties

s 86 amd 1954 3 Eliz 2 No. 31 s 13

Publication of orders in council and regulations
s 91 amd R1 (see RA s 39)