

INDUSTRIAL UNDERTAKINGS
PURCHASERS' PRICES PRO-
DUCTS ACT.

Act No. 33, 1937.

An Act to provide for the constitution of Boards to determine fair and reasonable prices for bricks, blue metal, and cement products the respective products of businesses respectively carried on by the purchasers of the assets of the State Brick Works, the State Metal Quarries, and the State Monier Pipe and Reinforced Concrete Works, and their sequels in title on lands comprised in such assets; to repeal the Special Deposits (Industrial Undertakings) Act, 1912, and certain other Acts; and for purposes connected therewith or incidental thereto. [Assented to, 23rd December, 1937.]

George VI,
No. 33, 1937.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Industrial Undertakings Purchasers' Prices Products Act, 1937." Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Board" means a board constituted under this Act.

"Blue metal" includes crushed stone and screenings.

"Cement products" means concrete or cement pipes, synthetic stone made with concrete or cement, and concrete or cement goods ordinarily made

made by the State Monier Pipe and Reinforced Concrete Works at the time of the sale of the assets thereof.

“Minister” means Minister for Public Works.

“Prescribed” means prescribed by this Act or by regulations made thereunder.

“Purchaser” means—

- (a) Brickworks Pty. Limited or their sequels in title in relation to any bricks the products of a business carried on by any of them in connection with the land referred to in the First Schedule hereto (or any part thereof) or in relation to the price for any such bricks;
- (b) Quarries Pty. Limited or their sequels in title in relation to any blue metal the product of a business carried on by any of them in connection with the land referred to in the Second Schedule hereto (or any part thereof) or in relation to the price for any such blue metal;
- (c) Monier Industries Limited or their sequels in title in relation to any cement products the products of a business carried on by any of them in connection with the land referred to in the Third Schedule hereto (or any part thereof) or in relation to the price for any such cement products.

“Sequels in title” means—

- (a) in the case of Brickworks Pty. Limited, their sequels in title in respect of the land referred to in the First Schedule hereto or any part thereof;
- (b) in the case of Quarries Pty. Limited, their sequels in title in respect of the land referred to in the Second Schedule hereto or any part thereof;

(c)

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(c) in the case of Monier Industries Limited, their sequels in title in respect of the land referred to in the Third Schedule hereto or any part thereof.

3. (1) The Governor shall from time to time at the request of the Minister or of the purchaser made as prescribed appoint a board for the purposes of this Act.

Appoint-
ment of
board to
hold
inquiry.

(2) A board shall consist of three members, one to be nominated by the Minister, one to be nominated by the purchaser concerned in the subject-matter of the inquiry to be held by that board, and a third member who shall be chairman, and shall be a person agreed upon between the Minister and such purchaser.

In the event of the Minister and the purchaser failing to agree within the time prescribed as to the third member, such third member shall be a person nominated by the Chief Justice of New South Wales or in the event of his inability to act by the Senior Puisne Judge of the Supreme Court.

(3) If no person, or no person able and willing to act as a member of the board, is within the time and in the manner prescribed nominated by the purchaser concerned, the Minister may nominate any person to represent the purchaser as a member of such board.

(4) If no person or no person able and willing to act as a member of the board is within the time and in the manner prescribed nominated by the Minister the purchaser may apply to a Judge of the Supreme Court by summons in Chambers to nominate a person to represent the Minister as a member of such board.

(5) For the purposes of any inquiry by a board, the chairman shall have the powers, rights, privileges, protection and immunities of a chairman of a Royal Commission within the meaning of Division 1 of Part II of the Royal Commissions Acts, 1923-1934, and a member of a board shall have the powers, rights, privileges, protection and immunities of a commissioner within the meaning of that Division.

(6)

(6) The provisions of the Royal Commissions Acts, 1923-1934, with the exception of section thirteen and Division 2 of Part II, shall apply to and with respect to any inquiry by the board.

(7) Any two members of a board shall be a quorum and shall have the powers and authorities by this Act conferred upon a board, provided that if at any meeting of a board the chairman is not present and the members present differ in opinion upon any matter the determination of such matter shall be postponed until such time as the chairman shall be present.

(8) In the event of any vacancy occurring in the office of a member of the board the Governor shall appoint a person to fill the vacant office on such nomination as would be applicable under the provisions of this Act in the case of an original appointment of such a member.

(9) The chairman shall have a deliberative vote, and in the case of an equal division of votes a casting vote.

(10) The costs of and incidental to an inquiry, including the fees of the members, shall be paid by the parties to the inquiry in such proportions as the board may direct.

(11) No action or suit shall be brought or maintained against any person who is, or at any time has been, a member of a board, for anything done or omitted by him pursuant to the duties imposed upon him by this Act.

Constitution
of a board
and its
functions.

4. (1) For the purposes of this Act separate boards are to be constituted as follows:—

- (a) a board constituted to determine the fair and reasonable prices for any one or more classes of bricks the products of any business carried on by Brickworks Pty. Limited or its sequels in title in connection with the land referred to in the First Schedule hereto or any part thereof and the board shall determine such prices accordingly;

(b)

- (b) a board constituted to determine the fair and reasonable prices for any one or more classes of blue metal the products of any business carried on by Quarries Pty. Limited or its sequels in title in connection with the lands referred to in the Second Schedule hereto or any part thereof and the board shall determine such prices accordingly;
- (c) a board constituted to determine the fair and reasonable prices for any one or more classes of cement products the products of any business carried on by Monier Industries Limited or its sequels in title in connection with the lands referred to in the Third Schedule hereto or any part thereof and the board shall determine such prices accordingly.

(2) The determination of a board of a fair and reasonable price may include as part thereof terms and conditions of sale (including description quality and delivery).

(3) As soon as may be after a board has determined any fair and reasonable price as aforesaid the board shall cause the determination to be published in the Government Gazette and a copy of such Gazette shall in any proceedings before any court or tribunal be evidence of such determination.

(4) A board may hold any inquiry under the Act in public.

5. (1) Brickworks Pty. Limited and its sequels in title shall sell to any person desirous of purchasing the same for cash, bricks the product of any business carried on by them in connection with the land referred to in the First Schedule hereto (or any part thereof) and of a class referred to in any determination by a board of a fair and reasonable price under this Act at a price and on terms and conditions not less advantageous to such person in any respect than the price and terms and conditions as so determined by the board.

Penalty for
breach of
board's
determina-
tion.

Penalty: Five hundred pounds.

(2) Quarries Pty. Limited and its sequels in title shall sell to any person desirous of purchasing the same for

for cash, blue metal the product of any business carried on by them in connection with the lands referred to in the Second Schedule hereto (or any part thereof) and of a class referred to in any determination by a board of a fair and reasonable price under this Act at a price and on terms and conditions not less advantageous to such person in any respect than the price and terms and conditions as so determined by the board.

Penalty: Five hundred pounds.

(3) Monier Industries Limited and its sequels in title shall sell to any person desirous of purchasing the same for cash, cement products the product of any business carried on by them in connection with the lands referred to in the Third Schedule hereto (or any part thereof) and of a class referred to in any determination by a board of a fair and reasonable price under this Act at a price and on terms and conditions not less advantageous to such person in any respect than the price and terms and conditions as so determined by the board.

Penalty: Five hundred pounds.

(4) It shall be a defence to a prosecution for a breach of any of the provisions of this section if the defendants prove that they had not available for sale by them at the relevant time the bricks, blue metal or cement products as the case may be.

(5) Proceedings under this section shall not affect any civil right or remedy the intending purchaser or any other person may have against the defendant arising out of the same matter.

Differences
between
members of
board.

6. If the members of a board are not unanimous in any matter the determination of any two members of the board shall be the determination of the board but if two members only be present one of whom is the chairman, the determination of the chairman shall be the determination of the board. Nothing in this section shall affect subsection seven of section three of this Act.

Penalties
at foot of
sections or
subsections.

7. The penalty, pecuniary or other, set out—

- (a) at the foot of any section of this Act; or
 - (b) at the foot of any subsection of any section of this Act, but not at the foot of the section,
- shall

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shall indicate that any contravention of the section or of the subsection respectively, whether by act or omission, shall be an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty mentioned:

Provided that where the penalty is expressed to apply to a part only of the section or subsection, it shall apply to that part only.

8. Offences against this Act or the regulations shall be punishable on summary conviction before a stipendiary or police magistrate or two justices of the peace. Recovery of penalties.

9. The following Acts are hereby repealed:— Repeal of certain Acts.

Special Deposits (Industrial Undertakings) Act, 1912;

Special Deposits (Industrial Undertakings) Amendment Act, 1916;

Special Deposits (Industrial Undertakings) Amendment Act, 1918;

Special Deposits (Industrial Undertakings) Amendment Act, 1930:

Provided always that with respect to any undertaking upon or in connection with the Murrumbidgee Irrigation Areas to which such Acts applied immediately prior to the commencement of this Act such undertaking may be carried on in all respects as if this Act had not been passed.

10. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving full effect to this Act, and in particular and without limiting the generality of the foregoing power, may make regulations in relation to— Regulations.

(a) the fees payable to the chairman of a board or to a member of a board;

(b) the scales of allowances to be paid to witnesses summoned under this Act to appear before a board;

(c) the procedure or proceedings of a board;

and may in such regulations impose a penalty not exceeding twenty pounds for any breach of the same.

(2)

- (2) All regulations made under this Act shall—
- (i) be published in the Gazette;
 - (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
 - (iii) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULES.

FIRST SCHEDULE.

The land described in the first part of the First Schedule in the printed Conditions and Terms of Sale of certain assets of the State Brickworks issued by the Minister for the purpose of inviting public tenders for the purchase of such assets.

SECOND SCHEDULE.

The lands described in the first and second parts of the First Schedule and the first part of the Second Schedule and the first part of the Third Schedule in the printed Conditions and Terms of Sale of Lots 1, 2 and 3 of the State Metal Quarries issued by the Minister for the purpose of inviting public tenders for the purchase of such lots.

THIRD SCHEDULE.

The lands described in the first and second parts of the First Schedule in the printed Conditions and Terms of Sale of Lots 1 and 2 of the State Monier Pipe and Reinforced Concrete Works issued by the Minister for the purpose of inviting public tenders for the purchase of such lots.

COMPANIES