

PROFITEERING PREVENTION ACT.

Act No. 41, 1920.

George V, An Act to prevent undue profit-taking ; to provide
No. 41. for the control and acquisition of necessary
commodities and the control of necessary
services ; to obtain information as to the
operations of trusts and other associations ;
to prevent unfair methods of trade competi-
tion ; to promote co-operative enterprise ; to
amend the Acts relating to Industrial Arbi-
tration ; to repeal the Necessary Commodities
Control Act, 1919 ; and for purposes conse-
quent thereon or incidental thereto. [Assented
to, 31st December, 1920.]

BE

BE it enacted by the King's Most Excellent Majesty, George V,
No. 41.
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 "Profiteering Prevention Act, 1920," and is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 2-4.

PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—*ss.* 5-9.

PART III.—JURISDICTION—*ss.* 10-24.

PART IV.—PARTICULAR OFFENCES—*ss.* 25-42.

PART V.—PENALTIES AND FORFEITURES—*ss.* 43-53.

PART VI.—SUPPLEMENTARY AND GENERAL—*ss.* 54-71.

PART I.

PRELIMINARY.

2. This Act shall not apply to the Crown or to any department of His Majesty's Government, or to any shire or municipal council, or to the Municipal Council of Sydney, or to the Railway Commissioners for New South Wales, or to the Metropolitan Board of Water Supply and Sewerage, or to the Hunter District Board of Water Supply and Sewerage, or to any statutory body representing the Crown, or to any undertaking included in Schedule One of the Gas Act, 1912.

3. (1) The Necessary Commodities Control Act, 1919, is hereby repealed, except as to things done or commenced and offences committed before the passing of this Act, which shall respectively be continued and dealt with under this Act. Repeal and
savings.

(2) All rules, regulations, orders, directions, and notices made or given under the authority of the said Act and in force at the commencement of this Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made or given under the authority of this Act. **4.**

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Interpreta-
tion.
cf. Necessary
Commodities
Control Act,
1919, s. 5.

4. In this Act, except where the context or subject-matter otherwise indicates or requires,—

“Board of Trade” means the “New South Wales Board of Trade” as constituted by the Industrial Arbitration (Amendment) Act, 1918.

“Commissioner” means a Commissioner appointed under this Act.

“Commodity” means necessary commodity.

“Corporation” includes a public company.

“Fixed charge” means the charge fixed and declared by the President to be the maximum charge which may be demanded or received for the supply of any necessary service.

“Fixed price” means the price fixed and declared by the President to be the maximum price which may be demanded or received on the sale of any necessary commodity.

“Fixed rate of profit” means the rate of profit fixed and declared by the President to be the maximum rate of profit which may be demanded or received on the sale of any necessary commodity or the supply of any necessary service.

“Inspector” means an inspector appointed under this Act.

“Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.

“Necessary commodity” means any of the following:—

- (a) coal, firewood, coke, kerosene, petrol, or other fuel;
- (b) any article of food or drink for man or for any domesticated animal;
- (c) any article of clothing or apparel for man, including hats, footwear, and haberdashery;
- (d) any article made of wool, linen, or cotton, or partly of one and partly of another;
- (e) fertilisers;
- (f) any article which enters into or is used in the composition or preparation of any of the foregoing commodities;
- (g) agricultural implements;
- (h)

- (h) tools of trade ;
- (i) seeds for sowing ;
- (j) any article of furniture ;
- (k) any building material ;
- (l) drugs, proprietary medicines, medical instruments, chemicals, disinfectants, soaps, and toilet requisites ;
- (m) oils ; and
- (n) any commodity which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary commodity ;

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(but does not include any prescribed agricultural or pastoral product in the ownership or possession of the grower or producer thereof).

“ Necessary service ” means any of the following:—

- (a) the supply of gas or electricity for lighting, heating, cooking, or industrial purposes ;
- (b) the supply of water for human consumption or for domestic or industrial purposes ;
- (c) the carriage of goods by land or sea ;
- (d) the carriage of persons by ferry ;
- (e) refrigeration and cool storage ;
- (f) the burial of the dead ; and
- (g) any service which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary service.

“ Person ” includes any association or combination of persons, whether incorporated or unincorporated.

“ President ” means President of the Profiteering Prevention Court established by this Act.

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

“ Retail ” shall be deemed to refer to the sale to a person for the purpose of consumption or use ; and “ retail trader ” has a corresponding interpretation.

“ Service ” means necessary service.

“ Specified ”

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“Specified” means specified by notice in the Gazette or by notice to a particular person or persons.

“Vessel” includes any ship, lighter, barge, boat, raft, or craft of whatever description and however navigated or propelled.

“Wholesale” shall be deemed to refer to 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 wholesale or retail trader); and “wholesale trader” has a corresponding interpretation.

PART II.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

Profiteering
Prevention
Court.

5. (1) For the purpose of administering and enforcing this Act there is hereby constituted a court to be known as the “Profiteering Prevention Court.”

President.

(2) The Governor may appoint a Judge of the Supreme Court, or the Court of Industrial Arbitration, or the District Court to be the Judge of the said Court, and such Judge shall, when exercising his functions under this Act, be styled “President of the Profiteering Prevention Court.”

Additional
Judges.

(3) (a) The Governor may appoint one or more Judges of the Supreme Court, or the Court of Industrial Arbitration, or the District Court as an Additional Judge or as Additional Judges of the Profiteering Prevention Court.

(b) An Additional Judge shall exercise any functions committed to him by the President, which the President may exercise under this Act, and for such purposes shall have the powers of the President under this Act.

(4)

(4) In the event of and during the absence from whatever cause, of the President, the Governor may appoint an Additional Judge to be the Deputy President of the Profiteering Prevention Court and to exercise the functions of the President under this Act.

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Deputy
President.

(5) Judicial notice shall be taken of the signatures of the President, Deputy President, and Additional Judge or Judges of the said Court.

6. (1) The President may himself hold any investigation or inquiry under this Act, or the Governor may, upon the recommendation of the President, appoint a barrister or a public accountant of not less than five years standing to whom the President may refer the conduct of any such investigation or inquiry for report to him and may fix the time and place or places for the holding of the same.

Power to
appoint a
barrister or a
public
accountant to
conduct an
investigation
or inquiry.

(2) For the purposes of such reference such barrister or public accountant when so appointed shall have the powers of the President under this Act, and shall be styled "Commissioner of the Profiteering Prevention Court."

7. (1) The President may, or, for the purposes of such reference, such Commissioner may, have associated with him persons (hereinafter referred to as "assessors") possessing special expert or business knowledge:

Assessors.

Provided that there shall not be more than two assessors for each investigation or inquiry.

- (2) Every such assessor—
 - (a) shall be appointed by the Minister upon the recommendation of the President;
 - (b) shall hold office during the period of such investigation or inquiry, unless removed by the Minister upon the recommendation of the President;
 - (c) shall be entitled to such remuneration for his services and such travelling allowance as the Minister may from time to time determine; and
 - (d) shall sit in an advisory capacity in any matters connected with such investigation or inquiry.

8.

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Report by
Commissioner
to President.

8. (1) Such Commissioner shall, upon the completion of such investigation or inquiry, forward to the President, with such recommendations as he may think fit to make, a detailed report of the same together with the oral and documentary evidence received in the course thereof. Any assessor, if he does not agree with such recommendations, may forward to the President a separate report stating his reasons for dissenting therefrom and making such other recommendations as he may think fit.

(2) The President shall proceed to consider such reports and recommendations, and may, with or without hearing further evidence, act upon the same as if such investigation or inquiry had been held in the first instance by himself.

Appointment
of secretary
and other
officers.

9. The Governor, on the recommendation of the Public Service Board, may appoint a secretary to the President and such other officers as he thinks necessary. Such secretary and other officers shall, subject to the provisions of any award or industrial agreement, receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

PART III.

JURISDICTION.

(1) *Power to investigate and inquire into the operations of trusts, &c.*

Power to
investigate
and inquire
into the
operations of
trusts, &c.
of Imperial
Profiteering
Act, 1919.

10. (1) Without prejudice to the generality of his powers under this Act the President may investigate and inquire into the nature, extent, development, and operations of trusts, companies, firms, combinations, agreements, and arrangements connected with mining, manufactures, trade, commerce, finance, carriage, or transport in order to ascertain whether their purpose or effect

effect is the regulation of the prices or output of commodities or services produced or supplied in New South Wales or imported into New South Wales, or the delimitation of markets in respect thereof, or the regulation of transport rates and services in so far as they tend to the creation of monopolies or to the restraint of trade, or to the abuse of a power to control trade; and the President shall for the purposes of this section utilize the powers of investigation or inquiry conferred upon him by this Act.

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(2) This section shall operate and have full force and effect whether or not maximum prices, rates of profit, or charges have been fixed under this Act.

(3) The President shall from time to time forward to the Governor a report embodying any information acquired by him under the provisions of this section, and any recommendations based thereon which he may think fit to make.

(2) *Power to prevent cornering and unfair methods of trade competition and discrimination.*

11. Any person who buys up any necessary commodity and stores or retains it in his possession or under his control, whether the maximum price thereof or maximum rate of profit thereon has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein, shall be guilty of an offence against this Act, and such commodity shall be liable to forfeiture as hereinafter provided.

Cornerers and restrictions on circulation of commodities.
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 18

12. (1) If the President has reason to believe—

- (a) that any person is using any unfair method of competition or discrimination in trade in any necessary commodity; and
- (b) that a proceeding by him in respect thereof will be to the interest of the public,

Unfair methods of trade competition and discrimination.

he may serve upon such person a complaint stating his charges in that respect, and calling upon such person to show cause why he should not be ordered to cease from using such unfair method. Such complaint shall fix a hearing for a day not less than thirty days after the service of such complaint.

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(2) Such person shall be entitled on the hearing to show cause why an order should not be made by the President requiring him to cease from using the unfair method charged in such complaint.

(3) Any other person may apply, and on good cause shown may be allowed by the President, to intervene and appear on such hearing.

(4) If upon such hearing the President is satisfied that the method so charged is unfair, he shall make a report in writing in which he shall state his findings as to the facts, and shall cause to be served on such person an order requiring him to cease within a specified time from using such unfair method.

(5) If such person fails to obey such order he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds (and to a further penalty not exceeding fifty pounds for every day after the first during which such failure continues) or to imprisonment for a term not exceeding six months. If the offender be a corporation, such corporation shall be liable to a penalty not exceeding five hundred pounds and to a further penalty not exceeding one hundred pounds for every day after the first during which such failure continues.

(6) Such person may within fourteen days after the day upon which such order is made appeal therefrom to the Supreme Court by filing in such Court a notice of appeal.

(7) Notwithstanding the filing of such notice of appeal such order shall continue to have full force and effect unless the President or the Supreme Court otherwise orders.

(8) Upon the filing of such notice of appeal the Court shall have jurisdiction over the proceeding, and may make a decree or order affirming, varying, or setting aside the order of the President.

(9) The Court may make rules as to proceedings before it under this section.

(3)

(3) *Power to promote co-operative enterprise.*

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13. (1) In order to encourage the creation of a system of checks by popular action upon the undue raising of prices, profits, or charges in respect of the sale of any necessary commodity or the supply of any necessary service, the Board of Trade may forthwith proceed to acquire knowledge of the principles and practice of co-operative enterprise, and may from time to time, with a view to the reduction of the average cost of living, report to the Governor on and propound schemes for—

Power of Board of Trade to report to Governor as to promotion of societies for co-operative enterprise.

- (a) the promotion and control of co-operative enterprise for the wholesale and retail supply of necessary commodities or the supply of necessary services ;
- (b) the constitution of co-operative societies, co-operative banks, and credit unions for such purposes ; and
- (c) the conditions upon which a co-operative society, bank, or union shall carry on business.

(4) *Power to investigate complaints.*

14. (1) The President may as regards any necessary commodity, or any necessary service, in respect of which no maximum price or rate of profit or charge has been fixed under this Act, receive and investigate complaints that a profit is being or has been, since the commencement of this Act, made or sought on the sale of such commodity, whether wholesale or retail, or on the supply of such service, which is, in view of all the circumstances, unreasonable, and on any such complaint the President may, after giving the parties an opportunity of being heard, either—

Power to investigate complaints and fix reasonable prices and charges.
cf. Imperial Profiteering Act, 1919.

- (a) dismiss the complaint ; or
- (b) fix the price or charge which would yield a reasonable profit, and require the seller of the commodity or the person supplying the service to repay to the complainant any amount paid by the complainant in excess of such price or charge.

(2)

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(2) Any seller or person supplying such service who in such proceeding is proved to have charged or sought a profit which is, in view of all the circumstances, unreasonable shall be guilty of an offence against this Act:

Provided that no proceeding under this section shall be instituted without the leave of the Attorney-General and no such leave shall be granted after the expiration of six weeks from the date of the transaction complained of.

Power to ap-
prove schemes
limiting
profits.
cf. Imperial
Profiteering
(Amendment)
Bill, 1920,
s. 1.

15. Where any persons, or associations of persons, appearing to the President to represent a substantial proportion of the persons engaged in the production, manufacture, sale, or distribution of any necessary commodity, or class of necessary commodities, or engaged in the supply of any necessary service, submit to the President a scheme limiting the rate of profit to be allowed on the production, manufacture, sale, or distribution of such commodity or class, at all or any stages of production, manufacture, sale, or distribution, or on the supply of such service, the President may, if he thinks it expedient, approve the scheme; and, where such scheme is so approved, any profit sought or obtained in connection with the manufacture, production, sale or distribution of any commodity, or the supply of any service, to which the scheme relates, which does not exceed such profit as is allowed by or under that scheme, shall not be deemed unreasonable for the purposes of the last preceding section.

(5) *Power to fix maximum prices of, and maximum rates of profit on, commodities.*

Power to fix
maximum
prices,
maximum
rates of
profit, &c.
cf. Necessary
Commodities
Control Act,
1919 (Vic.),
s. 10.

16. (1) Without limiting the generality of section fifteen the President may, by notice in the Gazette and in prescribed newspapers (if any) from time to time after inquiry—

(a) fix the highest price, wholesale or retail, at which any necessary commodity may be sold or supplied for consumption or use in New South Wales—

(i) by fixing such price directly; or

(ii)

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- (ii) by fixing the highest rate of profit (and whether gross profit or not as the President thinks fit) at which any necessary commodity may be sold or supplied or which may be charged or received in respect thereof :
 Provided that a maximum price and also a maximum rate of profit may be fixed with respect to the same necessary commodity ;
- (b) fix the delivery charge which may be charged for the delivery of any necessary commodity from the place of business of the trader to places within a specified radius thereof ;
- (c) fix different maximum prices or rates of profit according to differences in quality or description, or in the quantity sold or supplied, or according to whether the sale or supply is by wholesale or by retail ;
- (d) fix different maximum prices or rates of profit for different parts of New South Wales ;
- (e) fix any maximum price or rate of profit relatively to such standards of measurement, weight, capacity or otherwise as he thinks proper ;
- (f) fix maximum prices or rates of profit on a sliding scale ;
- (g) fix maximum prices or rates of profit varying in accordance with a standard, time, or other circumstance ;
- (h) fix maximum prices or rates of profit on a condition or conditions ;
- (i) fix maximum prices varying with profits, dividends, or wages and salaries ;
- (j) fix maximum prices or rates of profit for cash, delivery, credit, or time-payment, and in either case inclusive or exclusive of the cost of packing ;
- (k) fix maximum prices or rates of profit on the basis of manufacturing, landed, delivered or other cost ; and declare what items may or may not be included in such cost and whether in determining such cost regard is to be had to
 the

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the invoice cost of the materials used or to the cost of replacing the materials used or to any other method or principle specified in the proclamation ;

- (l) fix maximum prices or rates of profit on commodities according to or upon any principle or condition or upon any basis prescribed ; and
- (m) vary or revoke any maximum price or rate of profit previously fixed by him, but so as to apply only to future transactions.

(2) The President may for the purposes of this Act investigate prices, costs, and profits at all stages.

(3) The President shall, in fixing prices or rates of profit under this section, fix such prices or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

- (a) the actual cost to the seller of such commodity ;
- (b) the average cost to the seller of the stock of such commodity in his possession for the purposes of his business ;
- (c) the cost at date of inquiry of wages, commodities, rent, rates, taxes, and any other expenses and contingencies ;
- (d) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes ;
- (e) any fluctuations in trade or in profits ; and
- (f) whether such commodity is produced or manufactured in, or is imported into, the Commonwealth.

(4) The notice mentioned in subsection one shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum price or rate of profit or delivery charge shall take effect.

Power to prohibit increase in price of necessary commodities. of. Necessary Commodities Control Act, 1919, s. 12.

17. (1) The President may by notice as aforesaid declare that the market price of any necessary commodity shall not be increased on or after a date to be fixed by such notice.

(2)

(2) The market price of such commodity on such date shall be deemed to be the fixed price therefor, and shall be deemed to have been fixed under the last preceding section. George V,
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18. (1) The President may, by notice delivered to any person, require that such person shall not, on or after a date to be fixed by such notice, increase the price charged by such person for any commodity, or the charge made by him for the supply of any service, specified in such notice, unless such person first obtains the permission in writing of the President. Power to prohibit specific persons from increasing prices.
cf. Necessary Commodities Control Act, 1919, s. 13.

(2) The price charged by such person for such commodity, or the charge made by him for such service on the date fixed by such notice shall be deemed to be the fixed price or charge which may be demanded or received by such person, and shall be deemed to have been fixed under section seventeen.

(6) *Power to fix maximum charges for, and maximum rates of profit on, necessary services.*

19. (1) The President may by notice in the Gazette and in prescribed newspapers (if any) from time to time fix the maximum charges and rates of profit which shall be made for or on the supply of any necessary service, and in particular, and without limiting the generality of the power hereby conferred— Power to fix maximum charges and rates of profit for or on necessary services.

- (a) may fix different maximum charges and rates of profit according to the nature of the service supplied ;
- (b) may fix different maximum charges and rates of profit for different parts of the State ;
- (c) may fix any charge or rate of profit relatively to such standards of measurement, weight, capacity, distance, or otherwise as he thinks proper ;
- (d) may fix charges or rates of profit on the supply of any service according to or upon any principle or condition prescribed ; and
- (e) may from time to time vary or revoke any rate previously fixed by him, but so as to apply only to future transactions. (2)

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(2) The President shall, in fixing charges or rates of profit under this section fix such charges or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

- (a) the expenses of carrying on the business, including rent, rates, taxes, and contingencies;
- (b) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes; and
- (c) any fluctuation in trade or in profits.

(3) Such notice shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum charge shall take effect.

(7) *Power to acquire commodities.*

Power of
Governor to
acquire a
necessary
commodity
by proclama-
tion or
notice.

20. (1) The Governor may, upon the recommendation of the President—

- (a) by proclamation published in the Gazette; or
- (b) by notice 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 necessary commodity to retain and hold the same, or a specified quantity thereof, for and on behalf of His Majesty.

Property of
former owner
therein to
vest in His
Majesty.

(2) Upon the publishing of such proclamation or the giving of such notice the title to and property in such commodity or quantity thereof shall be divested from the owners thereof and become vested in His 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 such owners shall be converted into a right to receive payment of the value of such commodity or quantity thereof as hereinafter provided.

Owners, &c.,
to give
possession to
Minister.

(3) All such persons, and their agents and servants, shall without delay, obstruction, or objection give immediate and peaceable possession of such commodity or quantity thereof to the Minister or to any person authorised by him to demand and take possession of the same. (4)

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

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Authority signed or purporting to be signed by Minister, &c., to be sufficient authority for delivery.

(5) The owner of such commodity or quantity thereof shall be entitled to be paid therefor by the Minister either—

Payment of value of such commodity.

- (a) at the price or rate of profit fixed by this Act in respect of such commodity ; or
- (b) where no price or rate of profit has been so fixed,—
 - (i) at such price as may be mutually agreed upon, or
 - (ii) in default of such agreement, at such price as may be determined by the President 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 into the office of the Master in Equity to abide such order as may be made by the Supreme Court in its equitable jurisdiction.

Payment in case of doubt or dispute into office of Master in Equity.

(7) Any person who, after the publishing of such proclamation or the giving of such notice,—

Penalties.

- (a) attempts to dispose of or in any way deal with such commodity or quantity thereof to the prejudice of His Majesty's rights and powers under this section ; or
- (b) refuses to deliver, or delays, or obstructs the delivery as aforesaid of such commodity or quantity thereof,

shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding six months or to both penalty and imprisonment ; or, if the offender be a corporation to a penalty not exceeding one thousand pounds.

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Power of
Minister to
dispose of any
commodity
acquired
under this
section.

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

(8) *Power to secure sufficient supplies of commodities for home consumption.*

Power to
secure
sufficient
supplies of
commodities
for home
consumption.

21. (1) If the Governor has reason to believe that any necessary commodity is being sent out of New South Wales in such quantities that a sufficient supply thereof will not or may not be available for home consumption at the fixed price, or, if no price has been fixed, at such price as may be determined by the President after hearing the parties concerned, he may by proclamation published in the Gazette make such regulations and orders and give such directions as may be necessary to render available as aforesaid a sufficient supply of such commodity at such price, and to that end may act in conjunction with any other Government or authority.

(2) Any person contravening any of the provisions of such proclamation shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding four hundred pounds, or to imprisonment for any term not exceeding twelve months; or, if the offender be a corporation, to a penalty not exceeding one thousand pounds.

(9) *Power to require returns of commodities or services to be furnished.*

Power of
Governor
to require
returns to be
furnished.

22. (1) The Governor may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person having, or suspected of having, in his possession or under his control any specified necessary commodity, or being a supplier of any specified necessary service, to furnish to the Governor within the time fixed by such notice, a return in the specified form setting forth to the best of such person's knowledge and ability such particulars as are specified with respect to such commodity or service.

(2)

(2) Such notice may be either a notice given to such person individually or a notice to such persons generally and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

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(3) Such returns shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

(a) fails to comply with any of the requirements of such notice; or

(b) wilfully furnishes any false or misleading return,

shall be guilty of an offence against this Act.

(10) *Power of President to act in conjunction with other bodies.*

23. The President may, in the exercise of any of his powers and duties under this Act, co-operate with any person or body appointed and acting under any Act of the Commonwealth or of any State having objects similar to the objects of this Act.

Power of
President to
co-operate
with other
bodies.
cf. Necessary
Commodities
Control Act,
1919 (Vic.),
s. 26.

PART IV.

PARTICULAR OFFENCES.

24. (1) Any wholesale or retail trader who has in his possession or under his control any necessary commodity, and who fails—

(a) on demand of any quantity of such commodity; and

(b) on tender of payment at the fixed price or rate of profit for the quantity demanded,

to supply such commodity in such quantity, shall, subject to the provisions of this section, be guilty of an offence against this Act.

Failure to
supply
necessary
commodity at
fixed price.
cf. Necessary
Commodities
Control Act,
1919, s. 14.

(2)

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(2) Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question—

- (a) the defendant supplied a reasonable quantity of such commodity; or
- (b) the defendant was a wholesale trader in such commodity, and the person who demanded to be supplied was not a retail trader therein; or
- (c) there existed special circumstances in the particular case which justified or excused the failure of the defendant to comply with the provisions of this section.

(3) For the purposes of this section the President shall, in determining what is a reasonable quantity, have regard to all the circumstances of the case.

(4) Where a retail trader is prosecuted under this section, the defence that he supplied a reasonable quantity of such commodity shall be sufficiently established by proof that he supplied the person making the demand with a sufficient quantity thereof to meet the reasonable needs for one week—

- (a) of himself and the members of his household; and
- (b) if such commodity is of a kind generally used for animals, of all animals kept by him of the kinds for which such commodity is ordinarily used.

(5) For the purposes of this section, all persons who live with and in the same house as a person shall be deemed to be members of his household; and animals shall be deemed to include birds.

Sales at prices
higher than
fixed price.
cf. Necessary
Commodities
Control Act,
1919 (Vic.),
s. 13.

25. (1) Any person who (whether as principal or agent or whether by himself or his agent)—

- (a) sells or supplies or offers to sell or supply any necessary commodity at a price higher than the fixed price; or
- (b) charges or takes any sum for delivering any necessary commodity other than such sum (if any) as is fixed as a delivery charge in respect thereof—

shall

shall be guilty of an offence against this Act; and in case of sale or supply or of delivery (as the case may be) shall, in addition to any penalty or imprisonment to which he is liable under this Act, be liable to refund to the purchaser the difference between the fixed price and the price at which the commodity was sold or supplied or (as the case may be) to refund to the person to whom delivery is made the difference between the fixed delivery charge and the sum actually charged or taken for delivering the commodity.

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(2) Any person who (whether as principal or agent or whether by himself or his agent) sells or supplies or offers to sell or supply any of such commodity for such a price as yields to him a rate of profit which is greater than the fixed rate of profit with respect to such commodity shall be guilty of an offence against this Act, and shall in addition to any penalty or imprisonment to which he is liable under this Act be liable to refund to the purchaser the amount overcharged :

Sales at rates of profit higher than fixed rate.
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 14.

Provided that where a delivery charge is also fixed a sum not exceeding such delivery charge may be added to the selling price.

26. In any prosecution for an offence under the last preceding section an invoice given or account rendered by the defendant, or by some person with the express or implied authority of the defendant, for the necessary commodity in respect of which the offence is alleged to have been committed, or an offer in writing signed by the defendant or by some person on his behalf, to sell or supply such necessary commodity at a specified price, shall be prima facie evidence of the sale or supply of or offer to sell or supply such necessary commodity, and of the price charged or to be charged therefor.

Invoices, &c., to be prima facie evidence of sale and of price charged.
cf. Necessary Commodities Control Act, 1919, s. 15.

27. Any person, not being a bona fide wholesale or retail trader or a bona fide consumer or user, who purchases or agrees to purchase or otherwise acquire (except by way of bona fide security only) any specified necessary commodity or any right or interest therein, shall be guilty of an offence against this Act, and the commodity

Speculating in necessary commodities.

George V,
No. 41. commodity so purchased or agreed to be purchased or acquired shall be liable to forfeiture as hereinafter provided :

Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such purchase or agreement had not the object nor the effect of increasing, directly or indirectly, the price of such commodity to the consumer or user.

Increasing
prices, &c.,
without
leave.

28. (1) Where any proceeding to fix the maximum price of or rate of profit on any necessary commodity, or the maximum charge for or rate of profit on the supply of any necessary service, has been instituted under this Act and is still pending, no person shall increase the price or rate of profit at which he sells such commodity or the charge or rate of profit made by him for the supply of such service, unless he shall first have given the President notice of his intention so to do and obtained permission or shown cause as hereinafter provided.

(2) Every such notice shall specify—

- (a) the necessary commodity or the necessary service to which it relates ;
- (b) the then current price or rate of profit or charge ;
- (c) the proposed increased price or rate of profit or charge ; and
- (d) such further particulars as may be prescribed.

(3) The President shall, within fourteen days after the receipt of such notice, either—

- (a) notify such person that he permits such increase ; or
- (b) require such person to show cause why such increase should be allowed.

(4) Any person who increases such price or rate of profit or charge without first obtaining such permission or showing cause as aforesaid shall be guilty of an offence against this Act.

29. Any person who sells, offers, or exposes for sale, or supplies any necessary commodity knowingly represented by him, expressly or impliedly, to be of a particular description, make, origin, or quality shall, if such commodity is of a different description, make, origin, or quality, be guilty of an offence against this Act.

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Mis-
representing
description,
&c., of
necessary
commodities.

30. Any retail trader who exhibits or otherwise offers for sale any necessary commodity at a price denoted for the same shall on demand supply the purchaser with that commodity or with a similar commodity of equal quality and quantity at the price so denoted, and shall not attempt to substitute an inferior article therefor nor to raise the price above the price so denoted. Any such trader committing a breach of this section shall be guilty of an offence against this Act.

Supplying
purchasers
with articles
inferior to
those
exposed for
sale.

31. (1) Every person who is a producer, manufacturer, distributor, or seller of any specified necessary commodity, or who prepares the same for sale or distribution, and any or every person who supplies any necessary service, shall keep such books of account as will enable the cost of producing, manufacturing, distributing, or selling such commodity, or preparing the same for sale or distribution, and the cost of supplying such service to be ascertained.

Books to be
kept by
traders and
others.

(2) Any person who fails to comply with any of the requirements of this section shall be guilty of an offence against this Act.

32. (1) Every wholesale and retail trader in a necessary commodity and every person supplying a necessary service shall, where a maximum price or charge has been or shall be from time to time fixed, within such time and in such manner as shall be prescribed, exhibit conspicuously on his business premises, and keep so exhibited, a printed list as published in the Gazette showing such fixed price or charge, and the commodity or service in respect of which it has been fixed. Printed lists of such fixed prices or charges shall be made available by the Minister.

Lists of
prices, &c., to
be exhibited
by traders,
&c.

(2) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

33.

Profiteering Prevention Act.

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No. 41.

Excessive
charges, &c., by
suppliers of
necessary
services.
cf. Necessary
Commodities
Control Act,
1919, s. 22.

Right of
purchaser,
&c., to
demand
docket or
receipt from
trader, &c.

Destruction
of food or
drink.

Bribing of
witness.
cf. *Ibid.* s. 24.

33. Any person who is a supplier of any necessary service and who fails, without reasonable excuse, on tender of the fixed charge to supply such service or who demands or receives for such service a charge or rate of profit higher than the fixed charge or rate of profit, shall be guilty of an offence against this Act.

34. Any wholesale or retail trader who sells any necessary commodity and any person who supplies any necessary service, and who in either case fails, on demand by the purchaser or recipient of the service, as the case may be, to furnish to such purchaser or recipient a docket receipt or ticket showing clearly—

(1) the commodity sold or the service supplied and the date of such sale and the supply of such service ;

(2) the price paid on the sale of such commodity or the charge paid for such service,

shall be guilty of an offence against this Act.

35. Any producer, manufacturer, distributor, or seller, whether wholesale or retail, of any article of food or drink, who (being in the possession of the same for purposes of sale) by himself or by his agent or servant destroys or casts away the same, shall be guilty of an offence against this Act :

Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question such destruction or casting away did not raise or tend to raise the price of a similar article to the public.

36. Any person who—

(a) gives, confers, or procures, or promises, or offers to give, confer, or procure any property, or benefit of any kind to, upon, or for any person upon any agreement or understanding that any person called, or to be called, as a witness in any proceeding under this Act shall give false testimony or withhold true testimony ; or

(b) by any means induces a person called, or to be called, as a witness in any such proceeding to give false testimony or to withhold true testimony ; or

(c)

(c) asks for, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall, as a witness in any such proceeding, give false testimony or withhold true testimony,

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shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

37. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any such proceeding, with intent to affect the testimony of that person as a witness, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Fraud on
witness.
cf. Necessary
Commodities
Control Act,
1919, s. 25.

38. Any person who, knowing that any book, document, or writing is or may be required in evidence in any such proceeding, wilfully destroys it, or renders it illegible or undecipherable, or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Destroying
books or
documents.
cf. *Ibid.* s. 26.

39. Any person who wilfully prevents any person who has been summoned to attend as a witness in any such proceeding from attending as a witness, or from producing any evidence pursuant to the summons to attend, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Preventing
witness from
attending.
cf. *Ibid.* s. 27.

40. Any person who uses, causes, inflicts, or procures any violence, punishment, loss, or disadvantage to any person for or on account of his having appeared as a witness in any such proceeding, or for or on account of any evidence given by him therein, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Injury to
witness.
cf. *Ibid.* s. 28.

41.

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No. 41. **41.** (1) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of such employee's having appeared as a witness or given evidence in any such proceeding shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Dismissal by employers of witness.

cf. Necessary Commodities Control Act, 1919, s. 29.

(2) In any proceeding for an offence against this section it shall lie upon the employer to prove that any employee shown to have been dismissed from or prejudiced in his employment was so dismissed or prejudiced for some reason other than a reason mentioned in subsection one of this section.

Supplying false information, &c., at or for the purpose of any proceeding under this Act.

cf. Imperial Profiteering Act, 1919, s. 1 (4).

42. If any person at or for the purpose of any proceeding under this Act knowingly or recklessly furnishes any information or makes any representation which is false in any material particular he shall be guilty of an offence under this Act and liable on conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both.

PART V.

PENALTIES AND FORFEITURES.

(1) *Penalties.*

Penalties, except where otherwise provided.

43. (1) Any person guilty of an offence against this Act shall, except where this Act otherwise provides, be liable—

(a) for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding three months, or, if the offender be a corporation, to a penalty not exceeding two hundred pounds: Provided that the President or magistrate may, if satisfied that such first offence was due to inadvertence, impose a nominal penalty only; and

(b)

(b) for a second or subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for any term not exceeding six months or to both, or if the offender be a corporation, to a penalty not exceeding five hundred pounds.

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(2) Any person charged with a third or subsequent offence against the provisions of sections eleven, fourteen, twenty-four, twenty-five, twenty-seven, or thirty-three, shall be liable to be proceeded against on indictment, and if convicted of such offence, shall be liable to a penalty of not less than fifty nor more than five hundred pounds or to imprisonment for a term of not more than twelve months or to both.

If the offender be a corporation, such corporation shall be liable to be proceeded against before the Supreme Court for the recovery of a penalty not less than one hundred nor more than three thousand pounds; and, in addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

44. Where a person convicted of any offence against this Act is a corporation the chairman and every managing director and every officer concerned in the management of the corporation shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

Offence by corporation to be deemed an offence, prima facie, by the chairman, each director and officer.
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 34.

45. If two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty or imprisonment or both provided by this Act, and the liability of each of them shall be independent of the liability of the others.

Each of two or more persons responsible for same offence to be liable.
cf. *Ibid.*

46. Any agent, employee, or other person acting for another who knowingly takes part in or is in any way privy to doing any act or thing without authority which if authorised would be an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

Offence by agent, employee, &c.
cf. *Ibid.*

47.

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Aiding and abetting offences against this Act. cf. Necessary Commodities Control Act, 1919 (Vic.), s. 35.

47. Every person who aids, abets, counsels, procures, or connives at, or by any act or omission is in any way directly or indirectly concerned in or privy to the commission of any offence under this Act shall be deemed to have committed that offence and shall be punishable accordingly.

Recovery of penalties, &c. cf. Necessary Commodities Control Act, 1919, s. 32.

48. (1) Any inspector or member of the police force or party aggrieved may, except where this Act otherwise provides, institute proceedings—

- (a) in respect of offences committed within the Metropolitan, Newcastle, and Wollongong police districts constituted under Part III of the Justices Act, 1902, before the Chief Industrial Magistrate or his deputy; and
- (b) in respect of offences committed within other police districts before a stipendiary or police magistrate at the court in or nearest to the place where the defendant resides,

for the recovery in a summary way under the Justices Act, 1902, of any penalty, or for the awarding of any imprisonment, imposed by this Act or by any regulation made thereunder.

(2) Any defendant convicted before a magistrate of an offence against this Act may appeal to the President against such conviction, and any inspector, member of the police force, or party aggrieved by any order of a magistrate dismissing any proceeding instituted under this Act may, with the consent of the Minister, appeal to the President against such order.

(3) An appeal against such conviction or order shall be in the nature of a rehearing, and upon such appeal the President may—

- (a) affirm, vary, or set aside such conviction or order; and
- (b) impose any penalty or award any imprisonment authorised in the particular case by this Act.

(4)

(4) The President may make rules for the institution of, and the procedure on, appeals under this section. George V,
No. 41.

Notwithstanding anything contained in this Act the powers of the President under this section shall not be exercisable by an auxiliary judge who is not a barrister or solicitor.

(2) *Forfeitures.*

- 49.** If the President is satisfied that any person —
- (1) is buying up or storing or is retaining in his possession or under his control any necessary commodity in breach of the provisions of section eleven; or Forfeiture of
necessary
commodities.
cf. Necessary
Commodities
Control Act,
1919, s. 17.
 - (2) has in his possession or under his control any such commodity, and has failed, on demand and tender of the fixed price, to supply in accordance with the provisions of section twenty-four any particular person or persons with such commodity; or
 - (3) not being a bona fide wholesale or retail trader or a bona fide consumer or user has purchased or agreed to purchase or acquire any such commodity in breach of the provisions of section twenty-seven,

the President may recommend to the Governor that such commodity be forfeited. The Governor may thereupon by notice in the Gazette order that the whole of such commodity, or such quantity thereof as is specified in such notice, be forfeited to the Crown.

50. When any necessary commodity has been so forfeited, it shall be lawful for any inspector or any member of the police force or any person thereunto authorised in writing by the Minister— Seizure and
disposal of
forfeited
commodities.
cf. *Ibid.* s. 18.

- (a) to seize any commodity which he has reasonable cause to believe is forfeited under this Act;
- (b) to store the same in any place provided by the Minister for the purpose; and
- (c) to sell or otherwise dispose of the same to such persons or bodies and at such times and in such manner and upon such terms and conditions as the Minister may direct, or as may be prescribed.

51.

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No. 41.
Payment to
former owner
of fixed price,
less certain
deductions.
cf. Necessary
Commodities
Control Act,
1919, s. 19.

51. When any necessary commodity is seized under this Act the person who was the owner thereof prior to the forfeiture shall be entitled to be paid therefor by the Minister at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President deems reasonable in the circumstances, after deducting in either case—

- (a) the amount of any penalties imposed on such person in any proceedings under this Act, whether in respect of the goods so seized or otherwise, and the amount of any costs awarded against him in such proceedings, or so much of such amounts as have not already been paid; and
- (b) the costs and expenses of any application to the President for a recommendation of forfeiture, whether in respect of the necessary commodity so seized or any other necessary commodity; and
- (c) the costs and expenses of searching for, seizing, storing, and selling or otherwise disposing of such commodity.

Power to
search for
necessary
commodities.
cf. *Ibid.* s. 20.

52. Any inspector or member of the police force or person thereunto authorised in writing by the Minister may at any time in the day or night enter into and search any premises or vessel or part thereof, where any necessary commodity forfeited or liable to seizure under this Act is, or is 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 commodity is or is supposed to be.

(3) *Compulsory sales in lieu of forfeitures.*

Power of
President, in
lieu of recom-
mending the
forfeiture of
a commodity,
to require
owner, &c.,
to sell the
same.

53. (1) In any of the cases mentioned in section fifty the President may, in lieu of recommending a forfeiture, by notice require any person, who is the owner of or has in his possession or under his control any specified necessary commodity, to sell the same, or a specified quantity thereof, within a specified time, and in the manner hereinafter provided.

(2)

(2) Such sale shall be—

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- (a) where such person is a wholesale trader, a bona fide sale direct to a retail trader or traders or to a consumer or consumers; and
- (b) where he is a retail trader, a bona fide sale direct to a consumer or consumers.

(3) Such sale shall be at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President may deem reasonable in the circumstances.

(4) Any person failing to sell as aforesaid shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds for every day after the expiry of the specified time during which such default continues:

Provided that in any prosecution under this section it shall be a sufficient defence to show—

- (a) that the failure to sell was not due to any act or omission on the part of the defendant or of any agent or servant of the defendant; or
- (b) that there existed special circumstances justifying or excusing such failure to sell.

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PART VI.

SUPPLEMENTARY AND GENERAL.

Powers of
President for
purposes of
an inquiry.
cf. Necessary
Commodities
Control Act,
1919, s. 30.

54. The President shall for the purposes of any investigation, inquiry, or proceeding under this Act have all such powers, rights, and privileges as are vested in the Supreme Court, or in any judge thereof, on the occasion of any action or trial in respect of—

- (a) the compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration ;
- (b) the compelling the production of books, documents, and writings ;
- (c) the compelling witnesses to answer questions which the President deems to be relevant to the inquiry ;
- (d) the punishing persons guilty of contempt or of disobedience of any order or summons made or issued by the President ; and
- (e) the directing witnesses to be prosecuted for perjury.

Summons for
attendance of
witness or
production of
documents.
cf. *Ibid.* s. 31.

55. A summons signed by the President may be issued for enforcing the attendance of witnesses or compelling the production of books, documents, and writings. If any person having been served with such summons fails to appear, the President may issue a warrant authorising such person to be apprehended and brought before him.

Commission
not to be
bound by
rules as to
procedure or
evidence.

cf. Necessary
Commodities
Control Act,
1919 (Vic.),
s. 24.

56. The President in the exercise of any of his powers or duties shall not (except on the hearing of an appeal under section forty-eight of this Act) be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct his proceedings and inform his mind on any matter in such manner as he thinks proper, and without limiting in any way the operation of this section the President may refer any technical matter to an expert and may accept his report as evidence.

57.

57. A statement or disclosure made by any witness in answer to any question put to him in any prosecution under this Act shall not (except in a proceeding for an offence against this Act, or in a prosecution for perjury) be admissible in evidence against him in any civil or criminal proceeding in any court.

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No. 41.**
Statements made by witness not admissible in evidence against him. cf. Necessary Commodities Control Act, 1913 (Vic.), s. 27.

58. (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, require any wholesale or retail trader in any necessary commodity and any supplier of any necessary service to produce for examination by any person who has the authority in writing of the President, and at any time and place fixed by the President, any books, documents, and writings in his possession or under his control which may be deemed by the President to be necessary for the purpose of obtaining information in respect of any matters coming within the scope of this Act. Such trader or supplier shall when required by the person so appointed allow him to make copies or abstracts of any such books, documents, and writings so produced, or of any entries therein.

Power of President to require production of books, &c., to person appointed in that behalf.

(2) Any such trader or supplier who refuses or fails to comply with any requirement made under this section shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

59. (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person who is a producer, manufacturer, distributor, or seller (whether wholesale or retail) of any specified necessary commodity, or is a supplier of any specified necessary service, to furnish to the President or to any person authorised by the President in that behalf, and within a specified time and in a specified form, a return setting forth to the best of such person's knowledge and ability the following particulars or such of them as may be specified in such notice, namely—

Power of President to require returns of quantities, costs, prices, charges, &c.

- (a) the quantity of any specified commodity in his possession or under his control at the date of such notice ;
- (b)

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- (b) the cost to such person of such commodity ;
- (c) the prices, wholesale and retail, at which he sells or proposes to sell such commodity ;
- (d) the cost to such person of the supply of such service ;
- (e) the charges which he makes or proposes to make for the supply of such service ;
- (f) the methods and principles in accordance with which he arrives at such costs, prices, and charges ; and
- (g) such further particulars as may be specified in such notice.

(2) Such notice may be either a notice given to such person individually or a notice to such persons or a class of such persons generally ; and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

(3) Such return shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

- (a) fails to comply with any of the requirements of such notice ; or
- (b) wilfully furnishes any false or misleading return, shall be guilty of an offence against this Act.

Powers of
inspectors.

60. (1) Any inspector may, with the authority in writing of the President, whether an investigation or inquiry under this Act has been instituted or not—

- (a) enter upon the premises of any person having, or suspected of having, in his possession or under his control any necessary commodity, or being a supplier of any necessary service ;
- (b) require such person to give to such inspector full and accurate information as to—
 - (i) the quantities of such commodity in such person's possession or under his control and the cost to such person of such commodity ; and

(ii)

- (ii) the prices or rates of profit, wholesale and retail, at which such person is selling such commodity; and
- (iii) the charges which such person is making for the supply of such service; and
- (c) require such person to produce for examination by such inspector all books, documents, and writings relating to such commodity or service and to allow such inspector to make copies or abstracts of such books, documents and writings or of any entries therein.

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(2) If such person refuses to allow such inspector to enter upon his premises, or refuses or fails to give such information or to produce such books, documents, and writings, or to allow such copies or abstracts to be made, or knowingly gives false or misleading information, he shall be liable in each case to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

61. The President may impound or retain any book, document, or writing produced to him or to any person appointed as aforesaid, but the person otherwise entitled to such book, document, or writing shall in lieu thereof be entitled to a copy certified as correct by the President, and such certified copy shall be receivable in all courts as evidence and as of equal validity with the original. And until such certified copy is supplied, the President may, at such times and places as he shall think proper, permit such person, or in the case of a corporation any person appointed by the corporation, to inspect and make copies or abstracts of the book, document, or writing so impounded or retained or of any entries therein.

Power of
President to
impound
books, &c.

62. Any proclamation or notice issued or given under this Act, and published in the Gazette, and the contents of such proclamation or notice may be proved in any court by the production of--

Proof of
proclamations
and notices
and contents
thereof.

- (a) a copy of the Gazette purporting to contain such proclamation or notice; or
- (b) a copy of such proclamation or notice purporting to be printed by the Government Printer.

63.

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No. 41.

Gazette
notice to be
conclusive
evidence in
certain cases.
cf. Necessary
Commodities
Control Act,
1919, s. 33.

63. (1) The publication of a proclamation or notice in the Gazette shall be conclusive evidence in any court—

- (a) that the fixed price of or fixed rate of profit on any commodity, or the fixed charge for or rate of profit on any service, as therein appearing has been duly and lawfully fixed;
- (b) that the commodity or service is a necessary commodity or service; and
- (c) that all steps necessary for the fixing of such price or rate of profit or charge have been duly taken in accordance with the provisions of this Act.

(2) It shall not be competent for any person or court by any means whatever to question the legality or correctness of such fixed price or rate of profit or charge, or whether any commodity, the fixed price of or rate of profit on which is declared in such notice is a necessary commodity or whether any service for the supply of which a fixed charge or rate of profit is therein declared is a necessary service.

Power of
President
to publish
information
derived in
course of
judicial
inquiry or
investigation.
cf. Board of
Trade Act,
1919 (N.Z.),
s. 24.

64. (1) So far as such publication is deemed by the President to be expedient in the public interest it shall be lawful for him from time to time to publish in such manner as he thinks fit any information obtained in the course of any investigation, inquiry, or proceeding under this Act, and any report, findings, recommendations, or comments made with respect thereto by the President, Commissioner, person, or magistrate before whom such investigation, inquiry, or proceeding takes place.

(2) The publication of any such matter by the President and the republication by any other person of any matter published by the President or of any part of such matter shall be absolutely privileged, and the matter so published or republished shall be a lawful subject of comment within the meaning of the law of defamation, and no action shall be brought by any person for the publication or republication of such matter, whether on the ground of defamation or otherwise.

65.

65. Any person who in any way resists, interferes with, hinders, or obstructs any inspector or other officer or person in the exercise or discharge of any power or duty under this Act shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds.

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No. 41.
Resisting or obstructing inspectors, &c.
cf. Necessary Commodities Control Act, 1919, s. 35.

66. Any person, or agent or servant of such person, who, without lawful excuse, reveals any matter or thing which has come to his knowledge in the course of the exercise by him of any power or authority conferred by this Act or, as the case may be, in his capacity of agent or employee of such person, shall be liable to a penalty not exceeding two hundred pounds.

Revealing information without lawful excuse.

67. (1) If in the opinion of the President any question of law arises in the course of any proceeding under this Act the President shall, if any party to such proceeding so desire, state a case for the determination of that question of law by the Supreme Court.

Submission of questions of law to Supreme Court.
cf. *Ibid.* s. 37.

(2) The determination of the Supreme Court shall be binding upon the President and upon all parties to such proceeding.

68. No action shall lie against any person for any act or thing done by him under any authority conferred or purporting to be conferred upon him by or under this Act.

Freedom from liability.
cf. *Ibid.* s. 34.

69. (1) The Governor may from time to time make regulations for carrying out the provisions and objects of this Act, and for prescribing the procedure thereunder.

Power to make regulations.
cf. *Ibid.* s. 38.

(2) Any such regulation may impose any penalty not exceeding twenty pounds for each breach of the same, or, where the breach is a continuing one, any further penalty not exceeding five pounds for every day after the first during which such breach continues.

(3) Such regulations 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 days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of

of

George V,
No. 41.

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.

Saving as to
export, &c.
cf. Necessary
Commodities
Control Act,
1919 (Vic.),
s. 2.

70. Nothing in this Act shall apply to the sale or supply of any necessary commodity for export from New South Wales or to the sale or supply of any necessary commodities by public auction or competitive tender.

Duration of
Act.

71. This Act shall be in force until the thirty-first day of December, one thousand nine hundred and twenty-two.