

# MONOPOLIES ACT.

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Act No. 54, 1923.

An Act to amend the law relating to monopolies and restraint of trade ; to repeal certain sections of the Industrial Arbitration Act, 1912 ; and for purposes connected therewith. [Assented to, 21st December, 1923.]

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**B**E 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 :—

## PART I.

### PRELIMINARY.

**1.** This Act may be cited as the “ Monopolies Act, 1923.” Short title.

**2.**

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Division of  
Act.

**2.** This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY.

PART II.—MONOPOLIES AND RESTRAINT OF  
TRADE.

PART III.—INQUIRIES.

PART IV.—PENALTIES AND PROCEDURE.

Repeal.  
1912, No. 17,  
ss. 70, 71.

**3.** Sections seventy and seventy-one of the Industrial Arbitration Act, 1912, are hereby repealed.

Interpreta-  
tion.

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

“Action” includes suit.

“Board of Trade” and “Board” means the New South Wales Board of Trade.

“Combination” includes any agreement arrangement or understanding, and “combine” has a meaning corresponding with that of combination.

“Commodity” includes goods wares and merchandise.

“Conviction” includes verdict judgment or decree, and “convicted” has a meaning corresponding with that of conviction.

“Indictable offence” means an indictable offence against this Act.

“Offence” means an offence against this Act.

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

“Trade” means trade or commerce within New South Wales or any part thereof.

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## PART II.

### MONOPOLIES AND RESTRAINT OF TRADE.

Monopoly.

**5.** (1) No person shall monopolise, attempt to monopolise, or combine with any other person to monopolise, the trade in any commodity or service, with intent to control, to the detriment of the public, the supply or price of the commodity or service.

(2)

(2) Any person who contravenes this section shall be guilty of an offence. George V,  
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(3) Every contract made or entered into in contravention of this section shall be illegal and void.

**6.** (1) No person shall be or continue to be a member of or engage in any combination with intent to restrain, to the detriment of the public, trade in any commodity or service. Restraint  
of trade.

(2) Any person who contravenes this section shall be guilty of an offence.

(3) Every contract made or entered into in contravention of this section shall be illegal and void.

**7.** (1) Any combination of producers of any commodity which is reasonably necessary for the maintenance of the industry of such producers shall not be deemed to be to the detriment of the public. Producing  
industries.

(2) For the purposes of this section a combination of producers shall include any association of producers whether incorporated or unincorporated, and in particular—

- (a) any rural society registered under the Co-operation, Community Settlement, and Credit Act, 1923;
- (b) any company under the Companies Act, 1899, which has objects the same as, or similar to, those of such rural society.

### PART III.

#### INQUIRIES.

**8.** (1) The Board of Trade may, upon complaint made as prescribed by regulation under this Act, and shall, upon reference by the Attorney-General, make an inquiry into any of the following matters, that is to say, whether there is or has been— Board of  
Trade.

- (a) any monopoly of, or attempt or combination to monopolise, the trade in any commodity or service, with intent to control the supply or price of the commodity;

(b)

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- (b) any combination with intent to restrain trade in any commodity or service;
- (c) any combination for limiting or regulating the output or supply, or for raising maintaining or regulating the price, of any commodity or service;
- (d) any combination for limiting or excluding competition in the trade in any commodity or service, or any abuse for that purpose of a power to control such trade.

(2) In making any such inquiry the board shall consider whether, reasonable regard being had to the interests of producers distributors and consumers, any such monopoly or combination is or is not detrimental to the public.

Report.

**9.** (1) The board shall report to the Attorney-General the result of any such inquiry, together with such recommendations, if any, as the board may deem proper.

(2) The report shall be laid before Parliament.

Powers and  
privileges.

**10.** (1) For the purposes of any inquiry under this Act the president of the board shall have the powers rights and privileges of a chairman of a Royal Commission within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and a member of the board shall have the powers rights and privileges of a commissioner within the meaning of that Division.

(2) The provisions of the Royal Commissions Act, 1923, with the exception of Division 2 of Part II, shall apply to and with respect to the inquiry.

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#### PART IV.

##### PENALTIES AND PROCEDURE.

Aiding and  
abetting.

**11.** Every person who aids, abets, counsels, or procures, or is in any way knowingly concerned in the commission of an offence shall be deemed to have committed the offence.

**12.**

**12.** Every person who commits an offence after having been previously convicted of an offence shall be guilty of an indictable offence.

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Indictable  
offence.

**13.** (1) Every person who commits an offence shall, unless this Act otherwise provides, be liable to a penalty not exceeding five hundred pounds.

Penalty.

(2) Every person who commits an indictable offence shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both.

**14.** (1) Except where proceedings by indictment are instituted for an indictable offence, proceedings for the recovery of a pecuniary penalty for an offence shall be instituted by way of civil action.

Action or  
indictment.

(2) Instead of proceeding by indictment for an indictable offence, the Attorney-General may elect to institute proceedings by way of civil action for the recovery of the pecuniary penalty for the offence.

(3) No proceeding for an indictable offence or for the recovery of a pecuniary penalty shall be instituted under this Act except by the Attorney-General or some person authorised by him.

**15.** (1) A civil action for the recovery of a pecuniary penalty for an offence may be instituted in the Supreme Court either at common law or in equity, and shall be tried before a judge without a jury.

Civil action.

(2) The judge before whom the action is tried may exercise any power or jurisdiction of the Supreme Court at common law or in equity.

**16.** (1) An indictment for an indictable offence shall be tried before a judge of the Supreme Court with a jury.

Trial on  
indictment.

(2) The jury panel for the trial shall be taken from the list of special jurors.

**17.** (1) If any person is convicted of an offence, any judge of the Supreme Court may, upon application by or on behalf of the Attorney-General, grant an injunction restraining the convicted person and his servants or agents from the repetition or continuance of the offence of which he has been convicted.

Injunction.

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(2) Any person who does any act or thing in disobedience of such injunction shall be guilty of an offence and liable to a penalty not exceeding five hundred pounds for each day during which the offence continues.

(3) This section shall not be deemed to derogate from the power of the Supreme Court, apart from this section, to enforce obedience to the injunction.

Action for  
treble  
damages.

**18.** (1) Any person who is injured in his person or property by any other person, by reason of any act or thing done by that other person in contravention of this Act, or by reason of any act or thing done in contravention of any injunction granted under this Act, may, in the Supreme Court before a judge without a jury, sue for and recover treble damages for the injury.

(2) No such action shall be instituted without the written consent of the Attorney-General.

Statement of  
offence.

**19.** In any proceeding for an offence any indictment, information, declaration, statement of claim, conviction, warrant, or other process shall suffice if the offence is set forth as nearly as may be in the words of this Act.

Regulations.

**20.** (1) The Governor may make regulations for giving effect to this Act.

(2) The regulations shall be published in the Gazette and shall take effect from the date of publication or from a later date to be specified in the regulations.

(3) The regulations shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

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