

# Prices Regulation Act 1948 No 26

[1948-26]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Miscellaneous Acts Amendment \(Directors' Liability\) Bill 2011](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Prices Regulation Act 1948 No 26



New South Wales

An Act to make provision for the regulation of prices and rates of certain goods and services; and for purposes connected therewith.

## 1 Name of Act and commencement

- (1) This Act may be cited as the *Prices Regulation Act 1948*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
- (3) (Repealed)

## 2 (Repealed)

## 3 Definitions

- (1) In this Act, unless the contrary intention appears:

**authorised officer** means:

- (a) a person appointed by the Tribunal to be an authorised officer for the purposes of this Act, or
- (b) an investigator appointed under section 18 of the *Fair Trading Act 1987*.

**Chairperson** means the Chairperson of the Tribunal.

**declared goods** means any goods declared by the Minister, by notice in the Gazette, to be declared goods for the purposes of this Act.

**declared service** means any service declared by the Minister, by notice in the Gazette, to be a declared service for the purposes of this Act.

**inquiry**, in relation to the Tribunal, means an inquiry held by the Tribunal pursuant to:

- (a) a direction of the Minister under section 8A (1) (b),
- (b) section 8B, or
- (c) a decision of the Tribunal under section 8C (2).

**prescribed** means prescribed by this Act or the regulations.

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

**public utility undertaking** means any of the following undertakings the carrying on of which is authorized by or under any law, that is to say:

- (a) any undertaking for the supply of electricity, gas or water,
- (b) any transport, dock, harbour or pier undertaking,
- (c) any sewerage or sewage disposal undertaking, or any undertaking for the collection or disposal of refuse, or
- (d) any undertaking of a drainage authority,

and includes any such undertaking which is carried on by a council or a county council within the meaning of the [Local Government Act 1993](#).

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

**regulations** means regulations made under this Act.

**service** means:

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

**Tribunal** means the Independent Pricing and Regulatory Tribunal constituted under the [Independent Pricing and Regulatory Tribunal Act 1992](#).

- (2) A person who receives (otherwise than as agent) any valuable consideration from any

other person in respect of the enjoyment by that other person of a service shall, for all purposes of this Act, be deemed to supply that service to that other person for the amount or value, or at the rate, as the case may be, of that valuable consideration.

- (3) Where any agreement (including any lease) has been entered into, whether before or after the commencement of this Act, under which a person has become entitled to rights or privileges specified in paragraph (b), (c), (d), (e) or (f) of the definition of **service** in subsection (1), the person from whom the rights or privileges have been acquired shall, for all purposes of this Act, be deemed to be supplying those rights or privileges, at all times during which the rights or privileges continue, at the rate of the remuneration charged therefor from time to time.
- (4) Where the maximum rate of any such remuneration is, by virtue of any order or notice made or given after the making of any such agreement, and whether before or after the commencement of this Act, fixed under this Act at a rate lower than the rate otherwise payable under any such agreement, the agreement shall, while that maximum rate is in force, be deemed to be varied by the substitution of the rate so fixed for the rate otherwise payable under the agreement in respect of the exercise or enjoyment of any such rights or privileges after the commencement of this Act, or after the date on which the maximum rate becomes applicable, whichever is the later.
- (5) Nothing in this Act entitles the Tribunal to make an order under section 20 (5) with respect to the rental of any land or premises.

### **3A Act not to apply to government monopoly services**

This Act does not apply to any government monopoly service to which the *Independent Pricing and Regulatory Tribunal Act 1992* applies.

### **4-8 (Repealed)**

### **8A Furnishing of reports etc at Minister's direction**

- (1) The Minister, for the purpose of determining whether he or she should exercise any power conferred on him or her under section 19, may direct:
  - (a) the Chairperson to furnish a report to him or her, or
  - (b) the Tribunal to hold an inquiry and furnish a report to him or her,with respect to such goods or services or goods and services as are specified in the direction.
- (2) The Chairperson or the Tribunal shall comply with any direction given to him or her or it, as the case may be, by the Minister under subsection (1).

### **8B Inquiry by Tribunal**

The Tribunal, for the purpose of determining whether it should exercise any power conferred on it under section 20, shall hold an inquiry unless it obtains the consent of the Minister to dispense with the holding of an inquiry.

### **8C Application by person to Tribunal to hold inquiry**

- (1) A person:
  - (a) who is a seller of goods, or
  - (b) who supplies or carries on a service,  
to which an order made under section 20 relates, may make application to the Tribunal, in the prescribed manner, for an order under that section in relation to those goods or that service, as the case may be.
- (2) On receipt of an application made under subsection (1) the Tribunal may decide to refuse the application or to hold an inquiry.
- (3) The Tribunal shall notify a person who makes an application under subsection (1) of its decision with respect to that application.
- (4) Where the Tribunal decides to hold an inquiry pursuant to an application made under subsection (1), the person who made the application shall be a party to the inquiry.

### **8D Notice of inquiry by Tribunal**

The Tribunal shall, before commencing to hold an inquiry, by advertisement published, on such day or days as the Tribunal determines, in the Gazette and in a daily newspaper circulating throughout the State, give notice of the inquiry, the matter that is to be the subject of the inquiry and the time and place at which the inquiry is to be commenced.

### **8E Parties to inquiries**

- (1) At an inquiry, any person may apply to the Tribunal to be made a party to the inquiry.
- (2) If, on the making of an application referred to in subsection (1), the Tribunal is of the opinion that the applicant has a substantial interest in the matter that is the subject of the inquiry, the Tribunal shall grant the application but, if the Tribunal is not so satisfied, it shall refuse the application.
- (3) A party to an inquiry may appear in person or by his or her agent or Australian legal practitioner.
- (4) A party to an inquiry is entitled to give evidence, or call witnesses to give evidence, and to make submissions to the Tribunal, in relation to the matter that is the subject of the inquiry.



## **8F Procedure at inquiries**

- (1) An inquiry shall be held in public and, subject to this section:
  - (a) evidence in the inquiry shall be taken in public on oath or affirmation, and
  - (b) submissions in the inquiry shall be made in public.
- (2) If any witness objects to giving any evidence in public that the Tribunal is satisfied is of a confidential nature, the Tribunal may take that evidence in private if it considers it desirable to do so.
- (3) In an inquiry, the Tribunal may, if it thinks fit, permit a person appearing as a witness at the inquiry to give evidence by tendering, and verifying by oath or affirmation, a written statement and, where evidence is so given, the Tribunal shall make available to the public in such manner as the Tribunal thinks fit the contents of the statement other than any matter that the person who gave the evidence objects to being made public and that the Tribunal is satisfied is of a confidential nature.
- (4) In an inquiry, the Tribunal may, if it thinks fit, require or permit a party to the inquiry desiring to make submissions to the Tribunal to make those submissions in writing and, where submissions are so made, the Tribunal shall make available to the public in such manner as it thinks fit the contents of the submissions.
- (5) The Tribunal is not bound by the rules of evidence.

## **9 Powers of Tribunal on inquiry**

- (1) For the purposes of an inquiry, the Tribunal may:
  - (a) summon witnesses,
  - (b) take evidence on oath, and
  - (c) require the production of documents, books and papers.
- (2) Witnesses summoned in pursuance of subsection (1) may be paid such fees and allowances as are fixed by the Governor or as are prescribed.

## **10 Failure of witness to appear**

A person, having been summoned as a witness in pursuance of section 9, shall not fail, without lawful excuse, to appear in obedience to the summons.

## **11 Failure to be sworn, produce documents, or answer questions**

A person, having appeared as a witness before the Tribunal, whether summoned so to appear or not, shall not refuse, without lawful excuse, to be sworn, or to make an affirmation, or to produce documents, books and papers, or to answer questions which he

or she is lawfully required to answer.

## **12 Affirmation in lieu of oath**

- (1) Where any witness to be examined before the Tribunal conscientiously refuses to take an oath, he or she may make an affirmation that he or she conscientiously objects to take an oath and that he or she will state the truth, the whole truth and nothing but the truth, to all questions asked him or her.
- (2) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

## **13 Power to obtain information**

- (1) For the purposes of an inquiry, the Tribunal or an authorised officer may require any person:
  - (a) to furnish it or him or her with such information as it or he or she requires, or
  - (b) to answer any question put to him or her,in relation to any goods or services, whether declared or not, or to any other matter arising under this Act.
- (2) The Tribunal or authorised officer may require the information to be given, or the question to be answered, on oath and either orally or in writing, and for that purpose may administer an oath.
- (3) The Tribunal or authorised officer may, by notice in writing, require the information to be given, or the question to be answered in writing and at the place specified in the notice.
- (4) A person shall not, when so required under subsection (1):
  - (a) refuse or fail to furnish any information or to answer any question, or
  - (b) give any information or make any answer which is false in any particular.
- (5) A person shall not be obliged to answer orally any question or questions unless he or she has first been informed by the Tribunal or the authorised officer asking the question or questions that he or she is required and is obliged to answer by virtue of this section.
- (6) A person shall not refuse to furnish any information required or to answer any question put to him or her pursuant to this section on the ground that his or her so doing might tend to incriminate him or her or to make him or her liable to any penalty.
- (7) Any answer given orally by any person pursuant to any requirement under this section after he or she has been informed in the manner required by subsection (5) shall not

be admissible in evidence in any proceedings, civil or criminal, against him or her other than proceedings taken pursuant to subsection (4).

#### **14 Production of balance-sheets and other accounts and statements**

- (1) A trader who sells or has for sale any goods or supplies or carries on any service, upon being required so to do by the Tribunal by notice in writing, shall produce to it:
  - (a) all balance-sheets, manufacturing, trading, profit and loss, production and revenue accounts and all production, financial and statistical and similar statements prepared by the trader or on his or her behalf in relation to his or her business of selling goods or supplying or carrying on a service, and
  - (b) all documents of any kind (including documents of the kind referred to in section 57) which relate to the conduct of the business including the sale of the goods or the supply or carrying on of the service,

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

- (2) Where any balance-sheet, account, statement or document required to be produced to the Tribunal is in the possession or control of any person other than the trader to whose business it relates, that person shall, upon being required so to do by the Tribunal by notice in writing, produce to and leave with the Tribunal that balance-sheet, account, statement or document.
- (3) A trader or other person who has been required to produce to the Tribunal any balance-sheet, account, statement or document, shall, if the Tribunal so requires, permit the Tribunal to make a copy of, or to take an extract from, that balance-sheet, account, statement or document.

#### **15 Power to enter premises and inspect documents**

- (1) For the purposes of an inquiry, an authorised officer may enter upon and search any premises and inspect any documents, books and papers and may inspect and take samples of any stocks of declared goods or of any other goods.
- (2) An authorised officer may impound or retain any documents, books and papers produced to him or her or inspected by him or her in pursuance of this section and may make copies or abstracts of those documents, books and papers, or of any entries therein, but the person entitled to those documents, books and papers, shall, in lieu thereof, be entitled within a reasonable time to a copy certified as correct by the Chairperson, and such certified copy shall be received in all courts as evidence and as of equal validity to the original.
- (3) (Repealed)

## **16 Preventing authorised officer from entering premises etc**

A person shall not prevent or attempt to prevent an authorised officer from entering upon any premises, or inspecting any documents, books and papers or inspecting or taking samples of any stocks of any declared goods, or any other goods, or from making copies or abstracts of any documents, books and papers, or of any entries therein.

## **17 Tribunal may require returns to be furnished**

- (1) The Tribunal may, by notice, require any person to furnish to it or to an authorised officer, within a specified time and in a specified form, a return setting forth to the best of the person's knowledge and ability the following particulars or such of them as are specified in the notice namely:
  - (a) the quantity of any goods in his or her possession or under his or her control at a specified date,
  - (b) the cost to that person of those goods,
  - (c) the methods and principles in accordance with which he or she arrives at that cost,
  - (d) where the maximum price of the goods has not been fixed in pursuance of this Act, the prices, wholesale or retail, at which, and conditions on which, he or she has sold, sells or proposes to sell the goods,
  - (e) the price, wholesale or retail, charged by the person on such date as the Tribunal specifies, for the goods and the conditions of any such sale, and
  - (f) such further particulars as are specified in the notice.
- (2) The Tribunal may, by notice, require any person engaged in the supply or carrying on of any service to furnish to it, or to an authorised officer, a return setting forth to the best of the person's knowledge and ability such particulars relating to such service as are specified in the notice.
- (3) Any notice given under this section may be either a notice given to such person individually or a notice to such persons or a class of such persons generally; and such lastmentioned notice shall be published in the Gazette and in such newspapers (if any) as the Tribunal directs.
- (4) The return shall be verified by statutory declaration.
- (5) Any return furnished by any person under this section shall, in any proceedings under this Act, be admissible in evidence against that person.
- (6) A person shall not:
  - (a) fail to comply with any requirements of any such notice, or

(b) wilfully furnish any false or misleading return.

### **18 Proclaimed areas**

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

### **19 Power to declare goods and services**

- (1) The Minister may, by notice in the Gazette, declare any goods to be declared goods for the purposes of this Act.
- (2) The Minister may, by notice in the Gazette, declare any service to be a declared service for the purposes of this Act.
- (3) Any declaration by the Minister in pursuance of this section may be made generally or in respect of any part of the State or any proclaimed area or in respect of any person or body or association of persons.
- (4) Any such notice may, by notice in the Gazette, be amended, varied or revoked by the Minister.

### **20 Determination of maximum prices, rates etc**

- (1) The Tribunal may, with respect to any declared goods, from time to time, by order published in the Gazette:
  - (a) fix and declare the maximum price at which any such goods may be sold generally or in any part of the State or in any proclaimed area, or
  - (b) declare that the maximum price at which any such goods may be sold:
    - (i) by any person, shall be such price as is fixed by the Tribunal by notice in writing to that person, or
    - (ii) by any body or association of persons, or any member of any such body or association, shall be such price as is fixed by the Tribunal by notice in writing to that body or association.
- (1A) Notwithstanding subsection (1), the Tribunal shall, before causing an order referred to in subsection (1) to be published in the Gazette, serve a copy of the proposed order on the Minister and shall not cause the proposed order to be so published:

- (a) unless the Minister has informed the Tribunal that he or she does not propose to give it a direction under paragraph (b), or
  - (b) if the Minister, in the public interest, has directed the Tribunal not to publish the proposed order.
- (2) In particular, but without limiting the generality of subsection (1), the Tribunal, in the exercise of its powers under that subsection, may fix and declare:
- (a) different maximum prices according to differences in quality or description or in the quantity sold, or in respect of different forms, modes, conditions, terms or localities of trade, commerce, sale or supply,
  - (b) different maximum prices for different parts of the State, or in different proclaimed areas,
  - (c) maximum prices on a sliding scale,
  - (d) maximum prices on a condition or conditions,
  - (e) maximum prices for cash, delivery or otherwise, and in any such case inclusive or exclusive of the cost of packing or delivery,
  - (f) maximum prices on landed or other cost, together with a percentage thereon or a specified amount, or both,
  - (g) maximum prices according to or upon any principle or condition prescribed by the Tribunal, and
  - (h) maximum prices relative to such standards of measurement weight, capacity, or otherwise howsoever as it thinks proper, or relative to prices charged by individual traders on any date specified by the Tribunal, with such variations (if any) as in the special circumstance of the case the Tribunal thinks fit, or so that such prices shall vary in accordance with a standard, or time, or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the Tribunal.
- (3) The power conferred by paragraph (a) of subsection (1) to fix and declare by order published in the Gazette the maximum price at which any declared goods may be sold shall for all purposes be deemed to be validly exercised by an order so published which fixes any such price by reference to a list of prices approved by the Tribunal and issued by a body or association of persons which is recognised by the Tribunal:
- (a) in the case of sales by a producer or manufacturer of goods, to be representative of the producers or manufacturers, as the case may be, of the goods in relation to the sale of which the price is so fixed, and
  - (b) in the case of sales by a trader in goods, to be representative of the traders in the goods, in relation to the sale of which the price is so fixed.

- (4) Where the Tribunal makes an order in the form authorised by subsection (3), the Tribunal shall, on application by a seller of the goods to which the order relates, furnish him or her with a copy of the list of prices referred to in the order.
- (5) The Tribunal may, with respect to any declared service, from time to time, in its absolute discretion, by order published in the Gazette:
  - (a) fix and declare the maximum rate at which any declared service may be supplied or carried on generally or in any part of the State or in any proclaimed area, or
  - (b) declare that the maximum rate at which any such service may be supplied or carried on:
    - (i) by any person shall be such rate as is fixed by the Tribunal by notice in writing to that person, or
    - (ii) by any body or association of persons, or any member of any such body or association, shall be such rate as is fixed by the Tribunal by notice in writing to that body or association.
- (6) In particular, but without limiting the generality of subsection (5), the Tribunal, in the exercise of its powers under that subsection, may fix and declare:
  - (a) different maximum rates according to differences in the quality, description or volume of the service supplied or carried on or in respect of any different forms, modes, conditions, terms or localities of trade, commerce or supply,
  - (b) different maximum rates for different parts of the State or in different proclaimed areas,
  - (c) maximum rates on a sliding scale,
  - (d) maximum rates on a condition or conditions,
  - (e) maximum rates for cash or on terms,
  - (f) maximum rates according to or upon any principle or condition specified by the Tribunal, and
  - (g) maximum rates relative to such standards as it thinks proper, or relative to the rates charged by individual suppliers on any date specified by the Tribunal, with such variations (if any) as in the special circumstances of the case the Tribunal thinks fit, or so that such rates will vary in accordance with a standard, or time, or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the Tribunal.
- (7) The power conferred by paragraph (a) of subsection (5) to fix and declare by order published in the Gazette the maximum rate at which any declared service may be

supplied or carried on shall for all purposes be deemed to be validly exercised by an order so published which fixes any such rate by reference to a list of rates approved by the Tribunal and issued by a body or association of persons which is recognised by the Tribunal to be representative of the persons who supply or carry on the service to which the order relates.

- (8) Where the Tribunal makes an order in the form authorised by subsection (7), the Tribunal shall, on application by any person who supplies or carries on the service to which the order relates, furnish him or her with a copy of the list of rates referred to in the order.
- (9) The Tribunal shall not exercise the powers conferred by paragraph (b) of subsection (1), or paragraph (b) of subsection (5) to fix by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association shall sell any goods or supply or carry on any service, unless that body or association:
- (a) is recognised by the Tribunal as representative of the producers or manufacturers of or traders in those goods or of the persons who supply or carry on that service, and
  - (b) has requested the Tribunal in writing to exercise those powers.
- (10) Where the Tribunal fixes by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association may sell any goods or supply or carry on any service:
- (a) the secretary or other proper officer of the body or association shall:
    - (i) upon receipt of the notice, forthwith acknowledge its receipt by telegram addressed to the Tribunal and communicate to the members, by letter or telegram, its contents and the date upon which he or she received it,
    - (ii) make a record of the time at which and the manner in which he or she communicates to each member the matters specified in subparagraph (i), and
    - (iii) produce the record for inspection on demand by the Tribunal,
  - (b) the contents of the notice, if communicated by letter, shall be presumed, unless the contrary is proved, to have been communicated to a member at the time at which the letter would be delivered to him or her in the ordinary course of post, and
  - (c) the notice shall take effect, in respect of any member, upon communication to him or her of its contents or upon the expiration of seven days from its receipt by the secretary or other proper officer of the body or association, whichever is the earlier.



- (11) An order under this section may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the order.
- (12) The mere production of the Gazette containing an order published in pursuance of this section fixing and declaring:
- (a) by reference to a list of prices, the maximum price at which any declared goods may be sold, or
  - (b) by reference to a list of rates, the maximum rate at which any declared service may be supplied or carried on,
- or of a paper purporting to be a copy of any such order and purporting to be printed by the Government Printer, shall in all courts be evidence that the list was at the date of publication of the order in the Gazette approved by the Tribunal and issued by a body or association of persons recognised by the Tribunal to be:
- (i) representative of the producers or manufacturers of the goods,
  - (ii) representative of the traders in the goods, or
  - (iii) representative of the persons who supply or carry on the service,
- as the case may be.
- (13) The Tribunal may at any time by order published in the Gazette amend, vary or revoke any order made under this section.
- (14) Every order made under this section shall take effect upon the date specified in the order or, if no date is so specified, upon the date of the publication of the Gazette containing it.
- (15) Every order which has been, or is, made under subsection (1) (not being an order in respect of specific goods) shall apply in relation to all goods which are declared, whether before or after the making of the order, to be declared goods and in respect of which the declaration is in force.

## **21 Sale of goods and supply of service in one transaction**

- (1) The powers of the Tribunal of or in relation to fixing and declaring the maximum price at which any declared goods may be sold and the powers of the Tribunal of or in relation to fixing and declaring the maximum rate at which any declared service may be supplied or carried on shall be deemed to extend to and in relation to the fixing and declaring of the maximum remuneration for the sale of any declared goods and the supply of any declared service for an undivided remuneration, and the provisions of this Act (whether relating to the powers of the Tribunal or to any other matter) shall apply, *mutatis mutandis*, accordingly.

- (2) For the purposes of sections 29, 31, 32, 33, 39, 50 and 57 a transaction in respect of which a maximum remuneration has been fixed under subsection (1) shall be deemed to be the supply of a declared service at a rate equal to the undivided remuneration charged, and the maximum remuneration so fixed shall be deemed to be the maximum rate fixed under this Act for the supply of that service.
- (3) For the purposes of this Act, and of any order or notice under this Act, whether made or given before or after the commencement of this Act, unless the contrary intention appears:
- (a) the sale of any goods shall be deemed to include the supply, in connection with the sale (whether or not for a separate remuneration) of any service customarily supplied by vendors in connection with such a sale without any separate remuneration, and
  - (b) the supply or carrying on of any service shall be deemed to include the sale or supply, in connection with the service (whether or not for a separate price or remuneration) of any goods customarily sold or supplied by persons supplying or carrying on such a service without any separate price or remuneration.
- (4) For the purposes of this Act, and of any order or notice under this Act, whether made or given before or after the commencement of this Act, the sale of any declared goods and the supply of any declared service for an undivided remuneration, if:
- (a) no maximum remuneration applicable to the transaction as a whole has been fixed under this Act, and
  - (b) the transaction as a whole is not one which is, by reason of subsection (3), deemed to be either a sale of goods or the supply of a service,
- shall be deemed to be:
- (c) a sale of the declared goods at a price equal to so much of the undivided remuneration as bears to the whole of the undivided remuneration the same proportion as the maximum price fixed under this Act for the sale of the goods bears to the sum of that fixed price and the maximum rate fixed under this Act for the supply of the service, and
  - (d) a supply of the service at a rate equal to the remaining part of the undivided remuneration.

## 22 Transactions may be declared to be sales

- (1) The Tribunal may, by order published in the Gazette, declare that where a person (in this section referred to as **the agent**) purchases goods (whether declared goods or not) as agent, or purported agent, for another person (in this section referred to as **the principal**) and processes or treats the goods and delivers goods resulting from

the processing or treatment to the principal, the carrying out of the agency (or purported agency) and the performance of the other services by the agent shall, for the purposes of this Act, be deemed to be a sale of the goods so delivered by the agent to the principal at a price equal to the sum of the amounts paid or payable by the principal to the agent in respect of the agency and services (including the price paid by the agent for the goods purchased by him or her) and the order shall, for the purposes of this Act, have effect according to its tenor.

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

### **23 Power to prohibit certain transactions**

- (1) Where the Tribunal is of opinion that it is necessary so to do in order to prevent a person (in this section referred to as **the vendor**) who carries on the business of selling declared goods or supplying declared services from continuing to operate a scheme which, in the opinion of the Tribunal:
- (a) involves a departure from his or her normal course of trading,
  - (b) would not be operated but for the provisions of this Act or of an order thereunder, and
  - (c) has the effect that the real cost (taking into account losses involved in transactions connected with the scheme) to any purchaser or purchasers of goods from the vendor, of any declared goods so purchased, or to any person or persons to whom services are supplied by the vendor, of any declared services so supplied, is more than the maximum price or rate fixed under this Act for the sale of those goods or the supply of those services,

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

- (2) Except with the consent of the Tribunal, a person to whom a notice under this section (duly published or served) is directed shall not, while the notice remains unrevoked, enter into a transaction included in a class of transactions specified in the notice.
- (3) A notice under this section shall specify the class of declared goods or declared services in relation to which, in the opinion of the Tribunal, the scheme is being operated, but shall have full force and effect notwithstanding that it does not specify or describe the scheme which, in the opinion of the Tribunal, makes the notice necessary.
- (4) Any reference in this section to a person shall be deemed to include a reference to

persons included in a class of persons, and this section shall apply mutatis mutandis, accordingly.

#### **24 Power of Minister to suspend order etc**

- (1) Notwithstanding anything contained in this Act, the Minister may request the Tribunal to consider further any matter dealt with by any order made under section 20, or any part of any such order, and the Tribunal shall, within twenty-eight days from the date of any request so made, report thereon to the Minister.
- (2) Notwithstanding anything contained in this Act, the Minister may, by notice in the Gazette, suspend the operation of any order made under section 20, or any part of any such order, for a period not exceeding twenty-eight days from the date of his or her request.
- (3) Upon the publication of the notice, the maximum price or rate (if any) which prevailed prior to the making of the order which has been suspended shall apply during the period of the suspension.
- (4) The Tribunal shall:
  - (a) within the period specified in the notice of suspension, report thereon to the Minister, and
  - (b) within such period, by order published in the Gazette, confirm, amend, vary or revoke the order or part so suspended in conformity with its report to the Minister,and, on receipt of the report of the Tribunal, the Minister shall, by notice in the Gazette, remove the suspension.

#### **25 Power to prohibit sale of goods or supply of services before maximum price or rate fixed**

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

#### **26 Inter-wholesale transactions**

- (1) A wholesaler (in this section referred to as **the buyer**) who purchases any declared goods from any other wholesaler (in this section referred to as **the seller**) shall not sell or offer for sale those goods at a price in excess of the cost to the buyer:

Provided that the buyer may sell or offer for sale such goods at a price not greater than the maximum price at which the seller was entitled to sell them in similar

quantities at the time of sale and the onus of ascertaining such maximum price shall be upon the buyer.

- (2) A wholesaler who purchases any declared goods from a retailer shall not sell or offer for sale those goods at a price in excess of the cost to the retailer and the onus of ascertaining such cost shall be upon the wholesaler.
- (3) Notwithstanding anything contained in subsection (1), the buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the buyer, the Tribunal declares to him or her in writing.
- (4) For the purposes of this section, the buyer may request the seller of goods to supply him or her with such information as he or she deems necessary to enable him or her to comply with the provisions of this section and the seller shall thereupon furnish in writing such information to the buyer.
- (5) The Tribunal may, generally by order published in the Gazette or specifically by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this section.
- (6) In this section **wholesaler**, in respect of any goods, means any person who purchases those goods and sells or supplies them for resale or for manufacture for sale.
- (7) For the purposes of this section the term **cost**:
  - (a) in relation to any goods (not being goods to or in respect of which an order under subsection (8) applies)—shall be construed as meaning the actual price paid or payable by the wholesaler who purchased the goods (in this definition referred to as **the purchaser**) to the wholesaler or retailer from whom he or she purchased them, plus any expenses which:
    - (i) were actually and specifically incurred by the purchaser in placing the goods at the point of delivery by him or her for the purposes of a sale by him or her, and
    - (ii) at the time of the sale or offer for sale by the purchaser, were recorded:
      - (a) on a copy of an invoice for the goods which is held by the purchaser, or
      - (b) in the books and accounts of the purchaser in such a manner that they can be readily identified and clearly associated with the goods, or
  - (b) in relation to any goods to or in respect of which an order under subsection (8) applies—shall be construed as having the meaning defined in that order.
- (8) For the purposes of this section the Tribunal may, by order published in the Gazette, define the meaning of the term **cost**, in relation to:

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

## 27 Inter-retail transactions

- (1) A retailer (in this section referred to as the **retail buyer**) who purchases any declared goods from any other retailer (in this section referred to as the **retail seller**) shall not sell or offer for sale those goods at a price in excess of the cost to the retail buyer:

Provided that the retail buyer may sell or offer for sale such goods at a price not greater than the maximum price at which the retail seller was entitled to sell for any similar quantities at the time of sale, and the onus of ascertaining such maximum price shall be upon the retail buyer.

- (2) Notwithstanding anything contained in subsection (1), the retail buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the retail buyer, the Tribunal declares to him or her in writing.
- (3) For the purpose of this section, the retail buyer may request the retail seller of goods to supply him or her with such information as he or she deems necessary to enable him or her to comply with the provisions of this section, and the retail seller shall thereupon furnish in writing such information to the retail buyer.
- (4) The Tribunal may generally, by order published in the Gazette or specifically by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this section.
- (5) For the purposes of this section **cost**:
- (a) in relation to any goods (not being goods to or in respect of which an order under subsection (6) applies)—means the actual price paid or payable by the retail buyer to the retail seller, plus any expenses which:
    - (i) where actually and specifically incurred by the retail buyer in placing the goods at the point of delivery by him or her for a sale by him or her, and
    - (ii) at the time of the sale or offer for sale by the retail buyer were recorded:
      - (a) on a copy of an invoice for the goods held by the retail buyer, or
      - (b) in the books and accounts of the retail buyer in such a manner that they can be readily identified and clearly associated with the goods, or
  - (b) in relation to any goods to or in respect of which an order under subsection (6) applies—has the meaning defined in that order.

- (6) For the purposes of this section the Tribunal may, by order published in the Gazette, define the meaning of the term **cost**, in relation to:
- (a) any class of sale specified in the order,
  - (b) any class of goods so specified, or
  - (c) any class of trader so specified.

**28 Statements that prices have been approved by the Tribunal prohibited without its approval**

- (1) Subject to subsection (2), a person shall not:
- (a) publish, print, circulate, announce or make public in any other manner whatsoever, or cause to be published, printed, circulated, announced or made public in any other manner whatsoever, any notification relating to any goods or service, or
  - (b) sell or offer for sale any goods having affixed thereto or associated therewith any label, brand or other mark,
- containing words stating or implying that any price or rate specified in any such notification with respect to any such goods or service has been approved by the Tribunal or that any such goods or services have been subsidised by the State.
- (2) Any person may, with the approval of the Tribunal, include in any such notification a statement in such form as is approved by the Tribunal including an approval number allotted by the Tribunal to the particular approval, stating that any price or rate specified therein has been approved by the Tribunal.

**29 Sale of goods subject to condition to refund excess price prohibited**

A person shall not, unless the consent in writing of the Tribunal has first been obtained:

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

**30 Offence to sell at price higher than maximum price**

- (1) A person shall not:
- (a) sell or offer for sale any declared goods at a greater price than the maximum price

fixed in relation thereto under this Act for the sale of those goods, or

(b) without the prior approval of the Tribunal, sell or offer for sale any declared goods upon terms or conditions different from the terms or conditions upon which substantially identical goods were sold by him or her on the prescribed date if such sale or offer for sale upon such terms and conditions would result directly or indirectly:

(i) in a greater price than the maximum price fixed in relation thereto being obtained, or

(ii) in any other manner to the advantage of the seller.

- (2) In addition to any other penalty that may be imposed for a breach of subsection (1), the court may order the defendant to refund to the purchaser the difference between the maximum price so fixed and the price at which the goods were sold.
- (3) Where a court has made an order under subsection (2), a certificate under the hand of the clerk or other appropriate officer of the court, specifying the amount ordered to be refunded and the person by whom and the person to whom the amount is payable, may be filed in any court having civil jurisdiction to the extent of that amount, and shall thereupon be enforceable in all respects as a final judgment of that court.
- (4) A certificate by the Chairperson specifying the difference between the maximum price fixed, in relation to the goods, the sale of which is the subject of any proceedings under subsection (1), and the price at which the goods were sold shall, for the purposes of subsection (2), be prima facie evidence of the matters stated therein.
- (5) For the purposes of this section, any person on whose behalf or at whose place of business any declared goods are sold or offered for sale at a greater price than the maximum price fixed, in relation thereto, under this Act, for the sale of those goods, whether the goods are sold or offered for sale contrary to the instructions of the person or not, shall be deemed to have contravened the provisions of this section.
- (6) For the purposes of this section, a person shall be deemed to offer goods for sale if he or she notifies the price proposed by him or her for a sale of the goods by the publication of a price list, by exposing the goods for sale in association with a mark indicating price, by furnishing a quotation or otherwise howsoever.
- (7) In this section, **prescribed date**, in relation to the sale or offer for sale of any declared goods, means such date as is declared to be the “prescribed date” in any order made with respect to those goods under section 20.

### **31 Charging excessive rate for services, an offence**

(1) A person shall not:

(a) supply or offer to supply any declared service at a higher rate than the maximum



rate fixed in relation thereto under this Act, or

(b) without the approval of the Tribunal, supply or offer to supply any declared service upon terms and conditions different from the terms and conditions upon which a substantially identical service was supplied by him or her on the prescribed date if such supply or offer to supply upon such terms and conditions would result directly or indirectly:

(i) in a greater rate than the maximum rate fixed in relation thereto being obtained, or

(ii) in any other manner to the advantage of the supplier.

(2) For the purposes of this section, any person on whose behalf or at whose place of business any declared service is supplied at a higher rate than the maximum rate fixed in relation thereto under this Act, whether the service is supplied at such rate contrary to the instructions of such person or not, shall be deemed to have contravened the provisions of this section.

(3) In this section, **prescribed date**, in relation to the supply or offer to supply any declared service, means such date as is declared to be the "prescribed date" in any order made with respect to that service under section 20.

### **32 Sale of declared goods with undeclared goods etc**

(1) It shall be a defence to a proceeding for an offence against section 30 or section 31 if the party alleged to have contravened either of those sections proves:

(a) that the declared goods or declared service, or both, were supplied with undeclared goods or an undeclared service, or both, at a total price, and

(b) that the price or rate for that portion of the total sale represented by the undeclared goods or undeclared service, as the case may be, was reasonable having regard to the cost or current market value of the undeclared goods or undeclared service.

(2) In this section:

**undeclared goods** means goods other than declared goods, and

**undeclared service** means service other than a declared service.

### **33 Offering to pay higher price for declared goods etc**

(1) A person shall not knowingly:

(a) pay for or offer to pay for,

(b) hold himself or herself out as being willing to pay for, or to offer to pay for, or as

being willing or able to obtain another person to pay for, or

(c) offer to act in connection with the payment for,

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

(2) Where the maximum price or rate relevant to any prosecution for a contravention of this section is a price or rate fixed by notice in writing to any person or body or association of persons, it shall be a defence to the prosecution for the person charged to prove that he or she was not aware of the fact that the price or rate had been so fixed.

#### **34 Delivery of goods less in quantity or inferior in quality to those sold**

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

(a) a quantity of the goods less than the quantity agreed to be sold, or

(b) goods inferior in quality to the goods agreed to be sold:

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

#### **35 Production of genuine invoices as evidence**

Where in a defence to a prosecution under this Act it is pleaded that the price at which any goods were sold was justified by the cost at which such goods or the raw materials used in the manufacture of such goods were purchased, evidence as to the cost of such goods or raw materials, as the case may be, shall be supported by genuine invoices showing full particulars of the cost, including the date of purchase, and the name and place of business of the supplier and the onus of proof of the genuineness of such invoices shall be on the defendant.

#### **36 Prosecutions where price fixed is lower or lowest of more than one price**

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

### 37 Meaning of “wholesale” and “retail”

In this Act and in any order made thereunder fixing the maximum price for the sale of any declared goods, the following expressions shall, unless the contrary intention appears therein, have the meanings respectively assigned to them hereunder:

**landed cost** means the actual cost of landing the declared goods in the store in Australia of the person to or for whom, or on whose behalf, the declared goods were originally supplied or ordered or at such other point of delivery as is approved by the Tribunal.

**retail** used in relation to any such sale, shall be deemed to refer to a sale to a person for the purposes of consumption or use.

**wholesale** used in relation to any such sale, shall be deemed to refer to the sale or supply to a person for the purpose of re-sale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer or producer to a manufacturer or a wholesale or retail trader), and

the maximum price fixed shall be deemed to include any charge for wrapping the goods.

### 38 Refusal etc to sell at fixed prices

- (1) A person who has in his or her custody or under his or her control any declared goods for sale in respect of which a maximum price has been fixed under this Act, shall not refuse or fail on:
  - (a) demand of any quantity of the declared goods, and
  - (b) tender of payment at the price so fixed for the quantity demanded,to supply and such declared goods in the quantity demanded.
- (2) 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 the declared goods; or, after making reasonable provision for private consumption or use, had not a sufficient quantity of the declared goods in his or her custody or under his or her control to supply the quantity demanded, in addition to the quantity required to satisfy all other contracts, then subsisting, under which he or she was obliged to supply quantities of the declared goods for use or consumption within Australia and the ordinary requirements of his or her business,
  - (b) the defendant was a wholesale trader in the declared goods and the person who demanded to be supplied was not a manufacturer or a retail trader therein, or in any declared goods made or partly made therefrom, or
  - (c) the defendant was acting in accordance with a practice for the time being

approved by the Tribunal.

- (3) For the purpose of determining what is a reasonable quantity of any declared goods within the meaning of this section, regard shall be had to all the circumstances of the case, including the question whether the person who demanded to be supplied was or was not, at the time of the demand, carrying on business as a retail trader in the declared goods demanded, either alone or with other goods.

### **39 Refusal to perform service at declared rate**

- (1) A person who supplies or carries on any declared service in respect of which a maximum rate has been fixed under this Act shall not refuse or fail on:
  - (a) demand for the performance of the declared service, and
  - (b) tender of payment at the rate fixed for such service,to supply any such declared service.
- (2) 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 portion of the declared service demanded; or, after making reasonable provision for his or her private use, sufficient service was not under his or her control to supply the service demanded, in addition to the service required to satisfy all other contracts, then subsisting, under which he or she was obliged to supply that service within Australia, and the ordinary requirements of his or her business, or
  - (b) the defendant was acting in accordance with a practice for the time being approved by the Tribunal.
- (3) For the purpose of determining what is a reasonable portion of any declared service within the meaning of this section, regard shall be had to all the circumstances of the case, including the question whether the portion of the service demanded represented the normal requirements of the person who demanded its supply to him or her.

### **40 (Repealed)**

### **41 Speculating in goods**

- (1) A person, not being a bona fide wholesale or retail trader or a bona fide consumer or user, shall not purchase or agree to purchase or otherwise acquire (except by way of bona fide security only) any goods or any right or interest therein, and any goods so purchased or agreed to be purchased or acquired shall be liable to forfeiture as provided in this Act.
- (2) In any prosecution for an offence against subsection (1) it shall be a sufficient defence

to show that the purchase or agreement had not the object or the effect of increasing, directly or indirectly, the price of the goods to the consumer or user.

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

#### **42 Corners and restrictions on circulation of goods**

- (1) A person shall not, with intent to corner the market or restrain trade therein, hold or buy up any goods and store or retain them in his or her possession or under his or her control, whether the maximum price thereof has or has not been fixed and declared under this Act.
- (2) In addition to any penalty that may be imposed for an offence against subsection (1), the court may order that the whole of such goods, or such quantity thereof as the court so orders, shall be forfeited to the Crown.

#### **43 Forfeiture of goods by Minister**

If the Minister, upon report by the Tribunal, is satisfied that any person:

- (a) is buying up or storing or retaining in his or her possession or under his or her control any goods, whether a maximum price thereof has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein, or
- (b) has in his or her possession or under his or her control any such goods, and has failed, on demand and tender of the maximum price, to supply in accordance with the provisions of section 38 any particular person or persons with those goods, or
- (c) has purchased or acquired or agreed to purchase or acquire any such goods in contravention of section 41,

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

#### **44 Seizure and disposal of forfeited goods**

When any goods have been forfeited under section 42 or section 43 any authorised officer or any member of the police force may:

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

#### **45 Sales by auction**

- (1) The Tribunal may, by order published in the Gazette or by notice in writing to any person selling or offering for sale by auction any declared goods, prohibit such sale or permit such sale on such terms and conditions as it thinks fit.
- (2) A person shall not sell, or offer to sell, by auction, any declared goods in contravention of any order or notice under this section.

#### **46 Payment to former owner of whole or portion of proceeds of sale**

When any forfeited goods have been sold under paragraph (c) of section 44, the Minister may, under special circumstances, direct that the whole or any portion of the proceeds of the sale of the goods, less any expenses incurred in connection with their seizure, storage and sale, be returned to the person who was the owner of the goods prior to their forfeiture.

#### **47 Delivery of invoice or docket with declared goods**

The Tribunal may, by order, provide that any person who sells any goods shall deliver with the goods, or within such time after the delivery of the goods as is specified in the order, an invoice or docket containing such particulars as are so specified.

#### **48 (Repealed)**

#### **49 Power to requisition goods**

- (1) Where the Minister, after receipt of a report from the Tribunal, is satisfied that it is necessary or expedient so to do in order to ensure the fair distribution of goods amongst all members of the community, he or she may, by notice published in the Gazette or given to any person or persons, direct all or any persons who, whether as owners or otherwise, have in their possession or under their control any specified goods to retain and hold the goods, or a specified quantity thereof, for and on behalf of His Majesty.
- (2) Upon the publication or giving of the notice, the title to and property in the goods or the quantity thereof shall be divested from the owners thereof and become vested in 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 the owners shall be converted into a right to receive payment of the value of the goods or the quantity thereof as hereinafter provided.
- (3) All such persons, and their agents and servants, shall, without delay, obstruction or objection, give immediate and peaceable possession of the goods or the quantity thereof to the Minister or to any authorised officer.
- (4) The production of any document or telegram purporting to be a demand or an

authority to demand such goods, or quantity thereof, and to be signed or sent by the Minister or the Tribunal shall be sufficient authority for the delivery of the goods, or quantity thereof, to which the document or telegram relates.

- (5) The owner of the goods, or quantity thereof, shall be entitled to be paid therefor by the Minister:
  - (a) at such price as is mutually agreed upon, or
  - (b) in default of such agreement, at such price as is determined by the Tribunal 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.
- (7) A person shall not, after the publication or giving of any notice:
  - (a) attempt to dispose of or in any way deal with the goods, or the quantity thereof, to the prejudice of His Majesty's rights and powers under this section, or
  - (b) refuse to deliver, or delay, or obstruct the delivery as prescribed of the goods, or the quantity thereof.
- (8) Where any goods have been acquired under the provisions of this section, the Minister may store, sell or otherwise dispose of the goods to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as he or she thinks fit.

#### **50 Particulars with respect to declared goods and declared services to be exhibited**

- (1) The Tribunal may, by order, require any trader or class of trader, who sells or has for sale any declared goods or who supplies or carries on any declared service, the maximum price of, or the maximum rate for which is fixed by or under this Act to exhibit, in such position and in such manner as are specified in the order, such particulars relating to any such declared goods or services as are so specified.
- (2) The Tribunal or an authorised officer, if, in its or his or her opinion, the particulars are not legible to persons contemplating making any purchase or conducting any business at the trader's place of business, may direct that they be exhibited in such position or in such manner as it or he or she thinks fit, and the owner or person in charge of the trader's place of business shall forthwith cause the particulars to be exhibited in accordance with the direction.
- (3) The Tribunal or an authorised officer may, at any time, by notice in writing, require the owner or person in charge of any trader's place of business to furnish it or him or her

with details of the particulars which the trader is purporting to exhibit in pursuance of any order made under this section.

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

#### **51 Advertisements as to declared goods**

- (1) The Tribunal may, by order published in the Gazette, make provision for the inclusion in advertisement, or in any class of advertisements, published by any person, or by any specified person, or by persons included in any class of persons, in relation to any declared goods or any class of declared goods of such particulars (including particulars as to the maximum price fixed by or under this Act) as are specified in the order.
- (2) A person shall not publish, or cause to be published, any advertisement in relation to declared goods which does not include the particulars required to be specified in pursuance of any order under this section which is applicable to that advertisement.
- (3) An advertisement shall be deemed to be published within the meaning of this section if it is:
  - (a) inserted in any newspaper, periodical, or any other publication printed or published in this State, or
  - (b) exhibited to public view in, or on, any building, vehicle or place (whether or not a public place and whether on land or water), or
  - (c) contained in any document sent or delivered gratuitously to any person or thrown or left upon premises in the occupation of any person, or
  - (d) broadcast by wireless or television transmission.

#### **52 Tickets etc to be attached to declared goods**

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

#### **53 Manner in which notice in writing may be given**

- (1) A notice in writing for the purposes of this Act may be given:
  - (a) to any person, by delivering it by hand or by sending it by post in a letter addressed to that person at his or her last known or usual place of abode or place



of business,

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

(2) In any prosecution for an offence against this Act a certificate under the hand of the Chairperson that a document annexed to the certificate is a true copy of a letter or notice sent by or on behalf of the Tribunal to the defendant shall be prima facie evidence of the matters certified to and that the original letter or notice of which the document purports to be a copy was received by the defendant on or about the time at which it would be delivered in the ordinary course of post if it had been posted on the date borne by the document, and that the signature on the certificate is the signature of the Chairperson.

#### **54 Application of orders etc**

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

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

#### **55 Delegation**

(1) The Tribunal may, by instrument in writing, delegate to the holder of an office

specified in the instrument of delegation the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Tribunal by or under this Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

- (2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation made under this section, the Tribunal may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force or effect as if the act or thing done or suffered had been done or suffered by the Tribunal and shall be deemed to have been done or suffered by the Tribunal.
- (6) This section does not authorise the delegation of the power or duty of the Tribunal to hold an inquiry.

## **56 Saving of powers under certain Acts**

Nothing in this Act shall affect any provision of any other Act whereby power is conferred on any person or authority to fix or determine prices, charges or rates for or in relation to the sale or supply of any goods or services.

## **57 Books, accounts etc to be kept and preserved**

- (1) Every person who in the course of, or for the purposes of, or in connection with, or as incidental to, any business carried on by him or her:
  - (a) produces, manufactures, sells or supplies any goods whatsoever, or
  - (b) supplies or carries on any service whatsoever,

shall, for the purposes of this Act, keep proper books and accounts, and stock and costing records, where applicable, and shall preserve those books and accounts and stock and costing records, including all copies of invoices and all vouchers, agreements, correspondence, cables, telegrams, stock sheets and other documents relating to his or her purchases of stock, costs and sales of any goods or relating to any service supplied or carried on by him or her, for a period of at least 6 years after their making.

- (2) Without affecting the generality of subsection (1), the Tribunal may, by notice in writing, direct any person to whom that subsection applies to keep such books, accounts and records as are specified in the notice.
- (3) Every person to whom any such direction is given shall comply with the direction and shall preserve the books, accounts and records required to be kept by him or her in accordance with the direction for a period of at least 6 years after the direction is given.

## **58 Administrative policy**

This Act shall be administered with a view to:

- (a) the prevention of undue increases in prices and rates for goods and services, and
- (b) the regulation so far as is necessary of prices and rates for goods and services which are essential to the life of the community.
- (c) (Repealed)

## **59 Offences and penalties**

- (1) Any person who contravenes or fails to comply with any provision of this Act or the regulations, or any order, direction, requirement or other instrument made or given under this Act, shall be guilty of an offence against this Act.
- (2) No prosecution for an offence against this Act shall be instituted without the written consent of the Minister or authorised officer as may be authorised by the Minister for the purposes of this subsection.
- (3) Any person who is guilty of an offence against this Act shall be liable:
  - (a) if a body corporate—to a penalty not exceeding 100 penalty units,
  - (b) if any other person—to a penalty not exceeding 50 penalty units, or to imprisonment for a term not exceeding twelve months, or to both such penalty and imprisonment.
- (4) Where a person convicted of an offence against this Act is a body corporate, every person who at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to have committed the like offence, and be liable to the pecuniary penalty or imprisonment or both provided by this section in the case of such an offence by a person other than a body corporate accordingly, unless he or she proves that the offence was committed without his or her knowledge, or that he or she used all due diligence to prevent the commission of the offence.

## **60 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act prescribing all

matters which are required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) (Repealed)

## **61 Proceedings for offences**

- (1) Proceedings for an offence against this Act may be taken before the Local Court or before the Supreme Court in its summary jurisdiction.
- (2) Proceedings for an offence against this Act shall not be instituted in the Supreme Court in its summary jurisdiction without the written consent of the Minister.
- (3) If proceedings for an offence against this Act are brought in the Local Court, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provisions of this Act:
  - (a) where the offence is committed by a body corporate—20 penalty units, or
  - (b) where the offence is committed by any other person—10 penalty units or imprisonment for a term not exceeding 6 months, or both.
- (4) If proceedings for an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act in respect of the offence.
- (5) Proceedings in the Supreme Court in its summary jurisdiction for an offence against this Act may be commenced not later than 6 months after the offence was committed.

## **62 Savings, transitional and other provisions**

Schedule 1 has effect.

## **Schedule 1 Savings, transitional and other provisions**

(Section 62)

### **1 Construction of references to Prices Commission**

Subject to the regulations, a reference in any other Act, any statutory instrument or any other document to the Prices Commission or the Chairperson of the Prices Commission is taken to be a reference to the Tribunal or to the Chairperson of the Tribunal, as the case may be.