

New Zealand.



ANALYSIS.

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1919, No. 15.

Title.

AN ACT to make Better Provision for the Maintenance and Control of the Industries, Trade, and Commerce of New Zealand.
[4th November, 1919.]

Short Title.

"Industry" defined.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Board of Trade Act, 1919.
2. In this Act "industry" means and includes any trade, business, profession, or undertaking whatsoever carried on for the purpose of profit.

3. There is hereby established a Department of State, to be called "The Department of Industries and Commerce," which shall be charged with the administration of this Act and with such other functions as may from time to time be lawfully conferred upon it.

Department of
Industries and
Commerce
established.

4. The said Department shall consist of—

Constitution of
Department.

- (a.) The Minister of Industries and Commerce, who shall have the general administration of the Department :
- (b.) The New Zealand Board of Trade constituted by this Act :
- (c.) A chief administrative officer, to be called the "Secretary of Industries and Commerce" :
- (d.) An officer to be called the "Secretary of the New Zealand Board of Trade" :
- (e.) Such other officers, whether permanent or temporary, as may from time to time be found necessary for the administration of the Department or the assistance of the Board of Trade.

5. (1.) The Governor-General may appoint a member of the Executive Council to hold office during his pleasure as the Minister of Industries and Commerce.

Appointment of
Minister of
Industries and
Commerce.

(2.) The member of the Executive Council now holding office as the Minister of Industries and Commerce shall be deemed to have been so appointed under this Act.

(3.) The Ministerial office hereby constituted shall be deemed to be the same as that which is recognized under the same name by the Civil List Act, 1908, and by any other Act now in force.

6. (1.) There is hereby established a Board, to be called "The New Zealand Board of Trade" (in this Act referred to as the Board of Trade or the Board).

New Zealand
Board of Trade
constituted.

(2.) The Board shall consist of—

- (a.) The Minister of Industries and Commerce, who shall be the President thereof :
- (b.) Four other persons to be appointed by the Governor-General, each of whom shall hold office for a period of five years, save that he may be reappointed or may be at any time removed from office by the Governor-General for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Governor-General.

(3.) The members of the Board of Trade (other than the President) shall receive, from moneys appropriated by Parliament, such salary and allowances as may be approved by the Governor-General.

(4.) The members of the Board of Trade shall not as such be deemed to be permanent officers of the Public Service or subject to the Public Service Act, 1912.

(5.) The members of the Board of Trade (other than the President thereof) shall not be engaged in any paid employment otherwise than in the service of the Crown.

(6.) The powers of the Board of Trade shall not be affected by any vacancy in the membership thereof.

Board constituted by this Act to be deemed identical with Board constituted by Cost of Living Act, 1915.

7. The New Zealand Board of Trade as hereby constituted shall be deemed to be identical with the Board of Trade established by the Cost of Living Act, 1915, and the persons now holding office as members of the Board of Trade established by the Cost of Living Act, 1915, shall continue to hold office as members of the New Zealand Board of Trade constituted by this Act for the remainder of their term of office, but subject to the provisions of this Act as to reappointment, removal, and resignation.

Appointment of Secretary to New Zealand Board of Trade.

8. (1.) There shall be appointed an officer of the Department of Industries and Commerce who shall be called and shall act as the Secretary of the New Zealand Board of Trade.

(2.) Such office may be held concurrently with the office of Secretary to the Department.

Saving of existing appointments of officers of Board of Trade.

(3.) The officer now holding office as Secretary of the Board of Trade under the Cost of Living Act, 1915, shall be deemed to have been appointed as Secretary of the New Zealand Board of Trade under this Act.

(4.) All other officers now holding permanent office under section five of the Cost of Living Act, 1915, shall be deemed to be officers of the Department of Industries and Commerce under this Act.

Seal of Board.

9. The Board of Trade shall have an official seal for the authentication of documents executed or issued by the Board, and all Courts shall take judicial notice of such seal.

Governor-General may appoint deputy to act during incapacity of any appointed member of Board.

10. (1.) In any case in which the Governor-General is satisfied that an appointed member of the Board of Trade is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may appoint a deputy to act for that member during such incapacity, and any such deputy shall, while he acts as such, have all the powers and authority of the member for whom he is acting.

(2.) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Meetings of Board.

11. (1.) Meetings of the Board of Trade shall be held at such times and places as the President, or the Board, or any three members of the Board, shall from time to time appoint.

(2.) At all such meetings three members of the Board shall constitute a quorum.

(3.) The President of the Board shall preside at all meetings of the Board at which he is present.

(4.) In the event of the absence of the President from any meeting of the Board he may, if he thinks fit, appoint any other member of the Executive Council to act for him at that meeting, and the member of the Executive Council so appointed shall, in regard to that meeting, be deemed to be a member of the Board and to be the President thereof.

(5.) At any meeting of the Board the decision of a majority of the members present shall be the decision of the Board.

Functions of Board of Trade.

12. The functions of the Board of Trade shall be—

(a.) To obtain by means of investigations and judicial inquiries, under this Act or otherwise, information as to the industries of New Zealand:

- (b.) To publish with respect to those industries, in such manner as the Board thinks fit, such information as the Board deems of advantage to the public :
- (c.) To procure by means of regulations under this Act the due control, maintenance, and development of such industries :
- (d.) Such other functions relative to those industries as may be lawfully conferred upon the Board.

Board of Trade Inquiries.

13. The Board of Trade is hereby authorized and empowered to hold such judicial inquiries as it thinks fit (whether of its own motion, or on a reference from the Governor-General, or on the complaint of any person) into any matter whatsoever relative to any industry carried on or proposed to be carried on in New Zealand, or relative to any industry wherever carried on which may affect the industries of New Zealand, for the purpose of obtaining information which may be required for the due control, regulation, and maintenance of the industries of New Zealand; the due observance, enforcement, or amendment of the laws relative thereto; the discovery of breaches of those laws; the prevention or suppression of monopolies, unfair competition, and other practices detrimental to the public welfare; the proper regulation in the public interest of the prices of goods and the rates of services; or for any other purpose relative to the industries of New Zealand.

Board may hold judicial inquiries for certain purposes.

14. (1.) For the purposes of any such inquiry the Board of Trade may hear evidence on oath, and may summon any person to appear before it and give evidence as to the subject-matter of the inquiry, and may require any witness before the Board to produce to the Board all books or documents in his possession or control relative to the subject-matter of the inquiry or to permit any person nominated by the Board in that behalf to inspect and make copies of or extracts from any such books or documents.

For purpose of judicial inquiry Board may summon witnesses and hear evidence on oath.

(2.) If any person so summoned refuses or wilfully neglects to appear before the Board in pursuance of such summons, or to take an oath as a witness before the Board, or if any person having been sworn as a witness before the Board at any such inquiry refuses or wilfully neglects to answer any question put to him touching the subject-matter of the inquiry, or to produce to the Board any such book or document, or to permit the inspection in manner aforesaid of any such book or document; or the making of copies or extracts as aforesaid, he shall be deemed to be guilty of contempt of an inferior Court of justice, and the Supreme Court shall have jurisdiction, on the motion of the Board of Trade in its official name for a writ of attachment, to deal with the offender by way of fine or imprisonment accordingly.

Wilful failure to comply with summons or to give evidence to be deemed contempt of inferior Court of justice.

15. If any person gives wilfully false evidence in any such inquiry he shall be guilty of perjury within the meaning of the Crimes Act, 1908, and shall be liable accordingly.

Giving wilfully false evidence before Board of Trade to amount to perjury.

16. (1.) No person shall be excused from answering any question put to him at any such inquiry, or from producing or allowing the inspection of any book or document, or the making of copies thereof

Incriminating evidence.

or extracts therefrom, on the ground that such answer, production, inspection, copies, or extracts might tend to criminate him in respect of any offence :

Provided that—

- (a.) An answer by a person to a question at any such inquiry shall not, except in the case of an indictment for perjury in respect to such answer, be admissible in evidence against him in any proceeding, civil or criminal; and
- (b.) A witness who answers fully and faithfully all questions so put to him shall be entitled to receive a certificate of indemnity, signed by the person presiding at such inquiry, stating that such witness has so answered.

(2.) If any legal proceeding is at any time instituted against any person who has received such a certificate of indemnity for any offence committed by him previously to the date of the certificate and disclosed by him in such evidence, the Court having cognizance of the case shall, on proof of the certificate, stay proceedings.

17. (1.) For the purpose of any such inquiry the Board may in any case, with the approval of the Minister of Industries and Commerce, associate with itself one or more persons who in the opinion of the Board are possessed of expert knowledge of advantage to the Board in the conduct of the inquiry, and every person so associated with the Board shall for the purposes of that inquiry be deemed to be a member of the Board.

(2.) All such persons shall be officially designated as associates of the Board of Trade, and are in this Act so referred to.

(3.) Associates of the Board of Trade may receive from moneys appropriated by Parliament such remuneration and allowances as the Minister of Industries and Commerce thinks fit.

18. (1.) The Board of Trade may in any case delegate the powers of judicial inquiry and of investigation conferred upon it by this Act to any one or more of its members, either alone or together with any one or more associates of the Board.

(2.) The persons to whom any such delegation is made shall thereupon possess all the powers of the Board with respect to such inquiry or investigation, though not to the exclusion of the Board itself.

19. Witnesses attending at any such inquiry may be paid out of moneys appropriated by Parliament such allowances as the Board thinks fit.

20. At any such inquiry any person who in the opinion of the Board has a sufficient interest in the result thereof may be permitted by the Board to appear either personally or by counsel or other representative, and may be heard.

21. Every such inquiry shall be held in private, but nothing in this section shall be read as restricting in any manner the right of publication expressly conferred upon the Board by this Act.

22. The foregoing provisions as to the summoning of witnesses, the giving of evidence, the production and inspection of books and documents, and the making of copies thereof or extracts therefrom, shall extend and apply to officers in the service of the Crown, and to books and documents the property of the Crown and in the

Provision for appointment of associates of Board of Trade.

Delegation of judicial powers of Board to members of the Board severally.

Payment of witnesses.

Appearance before Board of persons interested in subject-matter of inquiry.

Inquiries not open to public.

Application to Crown of foregoing provisions as to production of documents, &c.

custody or control of such officers; and every such officer shall be bound to give evidence and to produce or allow the inspection of such books and documents, and to permit the making of copies or extracts, notwithstanding the provisions of any other Act to the contrary, unless the Minister in charge of the Department to which the officer belongs certifies in writing to the Board that the giving of such evidence or the production or inspection of such books or documents would be prejudicial to the interests of the State.

Investigations.

23. (1.) In any matter as to which the Board of Trade is empowered by this Act to hold a judicial inquiry it may, in lieu of or in addition to such judicial inquiry, make an investigation in pursuance of this section.

Board may conduct investigations under this section in lieu of or in addition to judicial inquiry.

(2.) For the purpose of such investigation the Board may by order require any person, firm, or body corporate engaged or concerned, or supposed to be engaged or concerned, in any industry to answer in writing, within such time and in such form as the Board thinks fit, any questions which relate to that industry, or to the connection of that person, firm, or body corporate therewith, or to any other matter which might have formed the subject of a judicial inquiry under this Act.

(3.) For the purpose of such investigation the Board may by order require any person, firm, or body corporate engaged or concerned, or supposed to be engaged or concerned, in any industry to produce for the inspection of any member or associate of the Board, or of any officer or other person nominated in that behalf by the Board, any books or documents in the possession or control of that person, firm, or body corporate of which inspection might have been required in a judicial inquiry under this Act relative to any matter affecting that industry, and to allow copies of or extracts from such books or documents to be made by the person so inspecting them.

(4.) If default is made by any person, firm, or body corporate in obedience to any order of the Board of Trade under this section, such person or body corporate and each member of such firm, and every person who counsels, procures, or is otherwise knowingly concerned in such default, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(5.) Every person who deceives or obstructs, or attempts to deceive or obstruct, the Board of Trade, or any member, associate, or officer thereof, or any person nominated by the Board as aforesaid, in the conduct of any such investigation shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months.

(6.) All information obtained by the Board, or by any member, associate, officer, or agent thereof, by means of any such investigation shall be treated as confidential, subject only to the right of publication expressly conferred on the Board by this Act.

Publication.

24. So far as such publication is deemed by the Board of Trade to be expedient in the public interest it shall be lawful for the Board

Board of Trade may publish information derived

in course of
judicial inquiry or
investigation.

from time to time to publish, in such manner as it thinks fit, any information obtained by the Board in the course of any judicial inquiry or investigation under this Act, and any report, findings, recommendations, or comments made with respect thereto by the Board or by its members or associates.

Such publication
to be absolutely
privileged for
purposes of law of
defamation.

25. The publication of any such matter by the Board of Trade and the republication by any other person of any matter published by the Board of Trade 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.

Regulations.

Board of Trade
regulations.

26. (1.) The Governor-General in Council may, on the recommendation of the Board of Trade, make, by regulations under this Act, such provisions as he deems necessary in the public interest for the following purposes:—

- (a.) For the prevention or suppression of methods of competition, trading, or business which are considered to be unfair or prejudicial to the industries of New Zealand or to the public welfare:
- (b.) For the prevention or suppression of monopolies and combinations in or in relation to any industry which are considered to be prejudicial to that or any other industry in New Zealand or to the public welfare:
- (c.) For the establishment of fixed or maximum or minimum prices or rates for any classes of goods or services, or otherwise for the regulation or control of such prices or rates:
- (d.) For the prohibition, regulation, or control of differential prices or rates for goods or services, or the differential treatment of different persons or classes of persons in respect of goods or services in cases where the existence of such differential prices, rates, or treatment is considered prejudicial to any industry in New Zealand or to the public welfare:
- (e.) For the regulation and control of industries in any other manner whatever which is deemed necessary for the maintenance and prosperity of those industries and the economic welfare of New Zealand.

(2.) All such regulations shall be known as Board of Trade regulations, and are so referred to in this Act.

Commencement of
regulations.

27. (1.) All Board of Trade regulations shall take effect when gazetted or on any later date specified in that behalf in the regulations.

Regulations to
be laid before
Parliament.

(2.) All such regulations shall be laid before both Houses of Parliament within fourteen days after the gazetting thereof if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

(3.) If both Houses of Parliament during the same session pass a resolution disapproving of any Board of Trade regulation, such

regulation shall thereupon cease to be in force as if it had then been revoked.

28. (1.) No Board of Trade regulation shall be deemed invalid because it delegates to or confers upon the Board of Trade or upon any other body or person any discretionary authority, whether judicial, administrative, or otherwise.

Certain matters not to invalidate regulations.

(2.) No Board of Trade regulation shall be deemed invalid because it deals with a matter already dealt with by this or any other Act, but in such case the regulation shall be read subject to such Act, and shall be valid and operative so far as not repugnant thereto.

(3.) If any Board of Trade regulation is in part *ultra vires* or otherwise invalid it shall nevertheless be valid and operative as to the residue thereof so far as such residue is severable in substance and effect from the part which is invalid.

29. No Board of Trade regulation shall be made determining the wages or remuneration of the employees in any industry.

Regulations not to determine rates of wages or remuneration.

Offences.

30. (1.) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other person (whether in New Zealand or elsewhere) to commit, any offence against a Board of Trade regulation shall be liable on summary conviction before a Stipendiary Magistrate to a fine not exceeding two hundred pounds, or to imprisonment for a term not exceeding three months.

Offences against Board of Trade regulations to be punishable on summary conviction by fine or imprisonment.

(2.) No such prosecution by way of summary proceedings shall be instituted except with the consent of the Board of Trade.

(3.) Any such prosecution may be instituted at any time within three years after the commission of the offence.

31. (1.) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other person (whether in New Zealand or elsewhere) to commit, any offence against a Board of Trade regulation shall be liable under this section to a penalty of one thousand pounds.

Alternative procedure in cases of offences.

(2.) If two or more persons are responsible for the same offence against any such regulation, each of those persons shall be severally liable under this section to a penalty of one thousand pounds, and the liability of each of them shall be independent of the liability of the others.

(3.) Every such penalty shall constitute a debt due by the offender to His Majesty the King, and shall be recoverable, together with costs of suit, by a civil action in the Supreme Court instituted by the Attorney-General for and in the name of His Majesty.

(4.) In any such action the Court may remit such part of the aforesaid penalty of one thousand pounds as it thinks fit, and may give judgment for the residue of the penalty only.

(5.) In any such action the Supreme Court may, in addition to the said penalty, grant an injunction against the continuance or repetition of the offence.

(6.) In any such action several persons may be joined as defendants, whether in respect of the same or of different offences, and whether those offences are committed by the same or by different parties; and in any such case separate judgments may be given in respect of each of the defendants so joined.

(7.) In the case of any such joinder of parties the Court may give such direction as it thinks fit for the separate trial of any cause of action against any defendant.

(8.) In any action for the recovery of a penalty or for an injunction under the foregoing provisions of this section the Supreme Court may, in proof of any fact in issue, admit and accept as sufficient such evidence as it thinks fit, whether such evidence would be legally admissible in other proceedings or not.

(9.) In any action for the recovery of a penalty or for an injunction under the foregoing provisions of this section no person, whether a party to the action or not, shall be excused from answering any question put to him by interrogatory or otherwise, or from producing or making discovery of any document, on the ground that the answer to the question or the production or discovery of the document would tend to criminate him in respect of any offence other than an indictable offence punishable by imprisonment.

(10.) Any such action may be commenced at any time within five years after the commission of the offence.

(11.) No person shall be proceeded against in respect of any offence both under this section and under the last preceding section.

Special provision
in prevention of
profiteering.

32. (1.) Every person commits an offence who, either as principal or agent, sells or supplies, or offers for sale or supply, any goods at a price which is unreasonably high.

(2.) For the purposes of this section the price of any goods shall be deemed to be unreasonably high if it produces, or is calculated to produce, more than a fair and reasonable rate of commercial profit to the person selling or supplying, or offering to sell or supply, those goods, or to his principal.

(3.) Every person commits an offence who, being in possession of goods for mercantile purposes, destroys or hoards and refuses to sell such goods or to make them available for sale if such destruction or hoarding and refusal raises, or tends to raise, the cost of other similar goods to the public.

(4.) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, or incites any other person to commit, or conspires with any other person to commit, an offence under this section shall be liable on summary conviction before a Stipendiary Magistrate to a fine not exceeding two hundred pounds or imprisonment for a term not exceeding three months in the case of an individual, or to a fine not exceeding one thousand pounds in the case of a body corporate.

(5.) If after a contract of sale of any goods has been made in which no price has been expressly agreed upon the seller, by himself or his agent, demands or receives from the buyer a price which is unreasonably high, the seller shall, for the purposes of this section, be deemed to have sold the goods at the price so demanded or received.

(6.) No prosecution shall be instituted under this section except with the consent of the Board of Trade.

(7.) In this section,—

“Price” includes every valuable consideration whatsoever, whether direct or indirect :

“Indirect consideration” includes every valuable consideration whatsoever which in effect relates to the sale of any goods although ostensibly relating to any other matter or thing :

“Sale” includes barter and every other disposition of goods for valuable consideration.

33. The liability of an employer or principal to any fine or pecuniary penalty (whether by way of action or by way of summary proceedings) for offences against this Act or any Board of Trade regulations committed by a servant or agent in the course of his employment shall be determined by the same principles as those which determine the liability of that employer or principal for civil injuries done by that servant or agent, and such offences shall be deemed to have been committed by the employer or principal accordingly.

Liability of employer or principal in respect of offences by servant or agent.

Repeals.

34. (1.) The Cost of Living Act, 1915, is hereby amended by repealing sections two to eleven thereof.

Repeals.

(2.) Section twenty-one of the War Legislation and Statute Law Amendment Act, 1918, is hereby repealed.