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ANALYSIS

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1958, No. 110

An Act to make provision with respect to the prevention of trade practices deemed contrary to the public interest

[3 October 1958]

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

1. Short Title—This Act may be cited as the Trade Practices Act 1958.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Books or documents” includes accounts, balance sheets, vouchers, records, contracts, and other instruments:

“Commission” means the Trade Practices and Prices Commission constituted by this Act:

“Commissioner” means the Commissioner of Trade Practices and Prices appointed under this Act:

“Department” means the Department of Industries and Commerce:

“Minister” means the Minister of Industries and Commerce:

“Person” includes a local authority or public body, and any association of persons, whether incorporated or not:

“Price”, in relation to the sale of any goods or to the performance of any services, includes every valuable consideration whatsoever, whether direct or indirect; and includes any consideration which in effect relates to the sale of any goods or to the performance of any services, although ostensibly relating to any other matter or thing:

“Price Tribunal” means the Price Tribunal constituted by the Control of Prices Act 1947:

“Retailer”, in relation to the sale of any goods, includes every person, other than a wholesaler, who sells the goods to any other person, and, in respect of the sale of any goods by a wholesaler to any person for any purpose other than resale, includes that wholesaler:

“Sale” includes barter and every other disposition for valuable consideration:

“Trade” means any trade, business, industry, profession, occupation, or undertaking relating to the sale of goods:

“Trade association” means a body of persons (whether incorporated or not) which is formed for the purpose of furthering the trade interests of its members, or of persons represented by its members:

“Trade practice” means any practice related to the carrying on of any trade; and includes any thing done by any person which controls or affects the prices charged by or the method of trading of any trader or any class of traders; and also includes a single or isolated action of any person in relation to any trade:

“Wholesaler”, in relation to the sale of any goods, means a person who sells the goods to any person for the purpose of resale.

(2) Where a seller sells any goods to a buyer for the purposes of resale, the seller shall be deemed to be a wholesaler and the buyer shall be deemed to be a retailer in respect of that sale, notwithstanding that the buyer intends to resell the goods to another buyer for the purposes of resale, and, in respect of any such resale, the seller shall be deemed to be a wholesaler and the buyer shall be deemed to be a retailer in respect of that resale.

PART I

TRADE PRACTICES AND PRICES COMMISSION

3. Trade Practices and Prices Commission—(1) There is hereby established a Commission to be called the Trade Practices and Prices Commission.

(2) The Commission shall consist of a Chairman and one or more other members.

(3) All persons who for the time being are members (other than associate members) of the Price Tribunal shall be members of the Commission and the President for the time being of the Price Tribunal shall be the Chairman of the Commission.

(4) The Governor-General, on the recommendation of the Minister, may, from time to time, appoint an additional member or additional members of the Commission. Any member appointed under this subsection shall hold office

during the pleasure of the Governor-General and any person so appointed shall, during the period of his appointment, be a member of the Price Tribunal.

(5) The Commission shall have a seal which shall be judicially noticed in all Courts.

4. Meetings of Commission—(1) Not less than two members shall be present at every meeting of the Commission.

(2) The Chairman shall preside at every meeting of the Commission at which he is present.

(3) In the absence of the Chairman from any meeting the members present shall elect one of their number to preside at that meeting.

(4) If at any sitting of the Commission two members only are present, both of those members shall concur in every decision of the Commission. In every other case a decision of the majority of the members present shall be the decision of the Commission, and in the event of an equality of votes the presiding member shall have a casting vote as well as a deliberative vote.

(5) Subject to the provisions of this Act, the Commission may regulate its procedure in such manner as it thinks fit.

5. Meetings to be held in public—(1) Except as provided by this section, every hearing of the Commission shall be held in public.

(2) The Commission may—

(a) Deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it:

(b) Order that any inquiry or any class of inquiries held by it be heard in private, either as to the whole or any portion thereof:

(c) Make an order prohibiting the publication of any report or account of the evidence or other proceedings in any inquiry held by it (whether heard in public or in private) either as to the whole or any portion thereof.

6. Members and officers to maintain secrecy—(1) Every member of the Commission, the Commissioner, and every person engaged or employed in connection with the work of the Commission or the Commissioner shall—

- (a) Maintain and aid in maintaining the secrecy of all matters which come to his knowledge when carrying out his functions or duties under this Act, and shall not communicate any such matters to any person, except for the purpose of carrying into effect this Act; and
- (b) Before he begins to perform any official duty under this Act, take and subscribe such oath of fidelity and secrecy as may be prescribed, which oath may be administered by any member of the Commission or by any Justice of the Peace.

(2) Every person who wilfully acts in contravention of the true intent of that oath commits an offence against this Act, and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

7. Remuneration and travelling allowances—(1) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid out of money appropriated by Parliament for the purpose to the members of the Commission remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

8. Functions of Commission—The functions of the Commission shall be—

- (a) To inquire into trade practices with a view to determining whether or not any such practices are contrary to the public interest:
- (b) To make orders directing the discontinuance or modification or prohibiting the repetition of any trade practice which it finds contrary to the public interest:
- (c) To take such other steps as in its opinion may be necessary to prohibit, prevent, or control trade practices which are or which may be contrary to the public interest:
- (d) To recommend to the Minister the imposition of price control in respect of any goods where, after inquiry under this Act, it is of the opinion that price control in respect of those goods is in the public interest:

- (e) To exercise the powers and functions conferred on the Price Tribunal by the Control of Prices Act 1947.

9. Commission may exercise powers of Price Tribunal— Without limiting the authority of the Price Tribunal, all the powers, functions, or duties conferred or imposed on the Price Tribunal by the Control of Prices Act 1947 may be exercised or carried out by the Commission.

10. Appointment of Commissioner and other officers— (1) For the purposes of this Act there shall from time to time be appointed under the Public Service Act 1912 a Commissioner of Trade Practices and Prices.

(2) There shall from time to time be appointed under the Public Service Act 1912 such other officers as may be necessary for the administration of this Act.

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REGISTRATION OF AGREEMENTS RELATING TO TRADE PRACTICES

11. Interpretation—(1) In this Part of this Act, unless the context otherwise requires, the term “agreement” means any agreement or arrangement referred to in subsection two of section nineteen of this Act made between two or more persons carrying on business in New Zealand; and includes any such agreement or arrangement whether or not it is intended to be enforceable by legal proceedings.

(2) Where any such agreement or arrangement relates to the sale or supply of goods or the performance of services in New Zealand and any party to the agreement carries on business in New Zealand, the agreement or arrangement shall be deemed to be an agreement within the meaning of subsection one of this section, notwithstanding that any other party to the agreement or arrangement does not carry on business in New Zealand.

(3) Where an agreement is made by a trade association, the agreement, for the purposes of this Part of this Act, shall be deemed to be made by all persons who are members of the association or represented thereon as if each such person were a party to the agreement.

(4) Where specific recommendations, whether express or implied, are made by or on behalf of a trade association to its members or to any class of its members, as to the action to be taken or not to be taken by them in relation to any matter

affecting the trading conditions of those members, this Part of this Act shall apply in relation to the agreement for the constitution of the association, notwithstanding any provision to the contrary therein, as if it contained a term by which each such member, and any person represented on the association by any such member, agreed with the association to comply with those recommendations and any subsequent recommendations affecting those recommendations.

(5) This Part of this Act shall not apply to any agreement which is expressly authorised by any enactment.

12. Registration of agreements—(1) Every agreement to which this Part applies shall be registered in accordance with this Part of this Act.

(2) Within three months after the date of the commencement of this Act, in the case of agreements existing on that date, and within three months after the date of the making of the agreement in other cases, the following particulars shall be furnished to the Commissioner in respect of every agreement which is subject to registration under this Part, that is to say—

(a) The names of the persons who are parties to the agreement; and

(b) The whole of the terms of the agreement.

(3) If at any time after an agreement has been registered under this section the agreement is varied (whether in respect of the parties or in respect of the terms) or determined otherwise than by effluxion of time, the particulars of the variation or determination shall be furnished to the Commissioner within twenty-eight days after the date of the variation or determination.

(4) The particulars to be furnished under this section in respect of an agreement shall be furnished—

(a) In so far as the agreement, or any variation or determination of the agreement, is made by an instrument in writing, by the production of the original or a true copy of that instrument:

(b) In so far as the agreement, or any variation or determination of the agreement, is not so made, by the production of a memorandum in writing signed by the person by whom the particulars are furnished.

(5) The particulars to be furnished under this section shall be furnished by or on behalf of any person who is a party to any agreement to which this Part applies or, as the case may be, was a party thereto immediately before its determination,

and where the particulars are duly furnished by or on behalf of any such person the provisions of this section shall be deemed to be complied with on the part of all such persons.

13. Keeping of register—(1) The Commissioner shall keep a register for the purposes of this Part of this Act.

(2) The register shall be kept in such form as the Commissioner thinks fit, and the Commissioner shall enter therein such particulars as may be prescribed by regulations under this Act of agreements subject to registration.

(3) The Commissioner shall provide for a special section of the register, and for the entry or filing in that section of such particulars as the Commission may direct, being—

(a) Particulars containing information the publication of which would in the opinion of the Commission be contrary to the public interest:

(b) Particulars containing information as to any secret process of manufacture or as to the presence, absence, or situation of any mineral or other deposits, or as to any other similar matter, being information the publication of which, in the opinion of the Commission, would substantially damage the legitimate business interests of any person.

(4) Any party to an agreement required to be registered under this Part of this Act may apply to the Commissioner for the agreement or any part of the agreement to be excluded from the provisions of this Part relating to registration on the grounds that the agreement or the part thereof has no substantial economic significance, or may apply to the Commissioner for the inclusion of any provision of the agreement in the special section.

(5) The Commissioner shall forward any such application to the Commission together with a report and his recommendations in respect of the application, and the Commission, if it is of the opinion that the grounds of the application are correct and that the registration of the agreement or part thereof is not necessary for the purposes of this Part, or that any provision of the agreement referred to in the application should be included in the special section, as the case may require, may direct the Commissioner accordingly, and the Commissioner shall take such steps as may be necessary to comply with any such direction.

(6) The register, other than the special section, shall be open to public inspection during such hours and subject to payment of such fees as may be prescribed by regulations under this Act.

(7) Any person may, upon payment of such fee as may be prescribed by regulations under this Act, require the Commissioner to supply to him a copy of an extract from any particulars entered or filed in the register, other than the special section, certified by the Commissioner to be a true copy or extract.

(8) No process for compelling the production of the register or of any other document kept by the Commissioner shall issue from any Court except with the leave of the Court, and any such process if issued shall bear a statement that it is issued with the leave of the Court.

(9) A copy of or extract from any document entered or filed in the register, certified under the hand of the Commissioner or any officer authorised to act on behalf of the Commissioner, shall in all legal proceedings be admissible in evidence as of equal validity with the original.

14. Power of Commissioner to obtain information—(1) If the Commissioner has reasonable cause to believe that any person is a party to an agreement subject to registration under this Part, he may give notice to that person requiring him, within such time as may be specified in the notice, to notify the Commissioner whether he is a party to any such agreement, and if so to furnish to the Commissioner such particulars as may be so specified of the agreement.

(2) The Commissioner may give notice to any person by whom particulars are furnished under section twelve of this Act in respect of an agreement, or to any other person being party to the agreement, requiring him to furnish to the Commissioner such further documents or information in his control as the Commissioner considers expedient for the purposes of or in connection with the registration of the agreement.

(3) Where a notice under this section is given to a trade association, the notice may be given to the secretary, manager, or other similar officer of the association; and for the purposes of this section any such association shall be treated as a party to any agreement to which members of the association, or persons represented on the association by those members, are parties as such.

15. Offences—(1) If any person who furnishes or is required to furnish any particulars, documents, or information under this Part of this Act,—

(a) Makes any statement, or furnishes any document, which he knows to be false in a material particular; or

(b) Wilfully alters, suppresses, or destroys any document which he is required to furnish as aforesaid,—
he commits an offence against this Act.

(2) If any person fails without reasonable excuse to comply with a notice duly given to him under section fourteen of this Act, he commits an offence against this Act.

PART III

INVESTIGATION AND INQUIRY INTO TRADE PRACTICES

16. Investigation into trade practices by Commissioner—

(1) The Commissioner shall—

(a) On the request of the Commission; or

(b) On complaint that may be made direct to the Commissioner or to the Department; or

(c) On his own motion,—

investigate any trade practice which appears to be contrary to the public interest.

(2) For the purposes of conducting any such investigation, the Commissioner shall have all the powers of a Committee of Inquiry appointed under section thirteen of the Industries and Commerce Act 1956.

(3) The Commissioner may, if he thinks fit, request the Department to supply any specified information for the purpose of assisting him in the conduct of any investigation under this section, and it shall be the duty of the Department to supply to the Commissioner any such information which it has available.

17. Report after investigation—If after he has carried out any investigation under section sixteen of this Act the Commissioner is of the opinion that the trade practice investigated is contrary to the public interest, he shall make a report in writing to that effect to the Commission together with his recommendation as to the order which he considers should be made in the circumstances.

18. Inquiry by Commission—(1) Where a report is made to the Commission under section seventeen of this Act, the Commission, if it is satisfied that the trade practice concerned appears to be contrary to the public interest, may conduct an inquiry into the matter.

(2) At any such inquiry the Commission may hear evidence on oath, and may, by order under its seal, summon any person to appear before it and to give evidence as to the

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subject-matter of the inquiry, and may require any witness to produce to the Commission all or any books or documents in his possession or control relative to the subject-matter of the inquiry.

(3) Where any person has appeared as a witness before the Commission pursuant to a summons in that behalf, or has given evidence before the Commission, whether pursuant to a summons or not, the Commission may, if it thinks fit, order any sum to be paid to that witness on account of his expenses, not exceeding the amount that would be payable to him if his attendance had been as a witness for the Crown in a criminal case in accordance with the regulations for the time being in force for the payment of witnesses for the Crown in criminal cases.

(4) For the purposes of any inquiry conducted by the Commission, any person authorised in that behalf by writing under the seal of the Commission may—

- (a) Inspect, examine, and audit any books or documents:
- (b) Require any person to produce any books or documents in his possession or under his control, and to allow copies of or extracts from any such books or documents to be made:
- (c) Require any person to furnish, in a form to be approved by or acceptable to the Commission, any information or particulars that may be required by the Commission, and any copies of or extracts from any such books or documents as aforesaid.

(5) The Commission may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Commission may require.

PART IV

CONTROL OF CERTAIN TRADE PRACTICES

19. Orders by Commission—(1) Subject to the provisions of this Act, where after inquiry under Part III of this Act the Commission is of the opinion that the continuance or repetition of any trade practice would be contrary to the public interest, the Commission may make an order directing the discontinuance or non-repetition of the practice or permitting its continuance or repetition subject to such conditions as may be prescribed in the order.

(2) No order shall be made under this section unless the trade practice concerned is, in the opinion of the Commission, substantially within one or more of the following categories:

- (a) Any agreement or arrangement between wholesalers to restrict by any method the class or number of buyers to whom they sell; or any agreement or arrangement between any two or more retailers to restrict by any method the class or number of wholesalers from whom they buy:
- (b) Any agreement or arrangement between wholesalers to sell goods only at prices or on terms agreed upon between those wholesalers; or any agreement or arrangement between wholesalers, retailers, or contractors to buy, or offer to buy, or tender for, goods only at prices or on terms agreed upon between any such wholesalers, retailers, or contractors:
- (c) Any agreement or arrangement between wholesalers or retailers or contractors or any combination of persons engaged in the selling of goods or the performance of services, to sell goods, or perform services, or to tender for the sale of goods, or the performance of services, only at prices or on terms agreed upon between the parties to any such agreement or arrangement:
- (d) Any agreement or arrangement between wholesalers to sell goods only on the condition that prices charged or conditions of sale by retailers shall be the prices charged or conditions of sale stipulated by those wholesalers:
- (e) Any agreement or arrangement between a wholesaler and a retailer to sell goods to the retailer only on the condition that the prices charged or conditions of sale by the retailer shall be the prices charged or conditions of sale stipulated by the wholesaler; or any agreement by any retailer to comply with any such condition:
- (f) Any agreement or arrangement between sellers or between sellers and buyers to grant rebates or discounts to buyers of goods calculated with reference to the quantity or value of the total purchases by those buyers from those sellers:
- (g) Any agreement or arrangement between sellers not to sell goods in any particular form or of any particular kind to buyers or any class of buyers; or any agreement or arrangement between resellers not to buy goods in any particular form or of any particular kind from sellers or any class of sellers:

- (h) Any agreement or arrangement between wholesalers or retailers not to employ or to restrict the employment of any method, machinery, process, or labour:
 - (i) Any unjustifiable refusal by a wholesaler to sell or supply goods to a retailer:
 - (j) Any complete or partial monopoly of the supply of goods in New Zealand or any part of New Zealand; or any practice tending to bring about any such complete or partial monopoly:
 - (k) Any agreement or arrangement between persons whether as producers, wholesalers, retailers, buyers, or others to limit or restrict the output or supply of any goods, or withhold or destroy supplies of goods, or allocate territories or markets for the disposal of goods:
 - (l) Any practice which would constitute an offence against section twenty-three, section twenty-four, section twenty-five, or section thirty-one of the Control of Prices Act 1947:
 - (m) Any payment to any person by sellers, or resellers, by way of royalty, commission, licence, fee, retainer, or otherwise which in the circumstances is excessive:
 - (n) The unjustifiable exclusion from any trade association of any person carrying on, or intending to carry on, in good faith the trade in relation to which the association is formed:
 - (o) Any agreement or arrangement between wholesalers, retailers, or buyers to enforce the carrying out of any agreement or arrangement referred to in the foregoing provisions of this subsection:
 - (p) Any agreement or arrangement not referred to in the foregoing provisions of this subsection prescribed for the purposes of this subsection by Order in Council pursuant to a recommendation in that behalf by the Commission after inquiry in accordance with this Part of this Act.
- (3) No order shall be made under this section in respect of any agreement or arrangement between buyers relating to goods which are bought by the buyers for consumption and not for resale.
- (4) Nothing in this section shall be deemed to authorise the making of an order in respect of a trade practice expressly authorised by any enactment.

(5) Where a trade practice relating to the sale or supply of goods, or the performance of services, in New Zealand is substantially within one or more of the categories referred to in subsection two of this section and any party to the practice does not carry on business in New Zealand, an order may be made under this section with respect to that part of the trade practice being carried on in New Zealand.

(6) Before making any order under this section the Commission shall have regard to any representations made to it by any party to the trade practice in question, and the Commission may, instead of making an order, permit any party who has made representations as aforesaid to take such steps, within such time as may be limited in that behalf by the Commission, as may be necessary to ensure that the trade practice is not contrary to the public interest, and, in any such case, if the Commission is satisfied that the necessary steps have been taken within the time limited as aforesaid, it may decide not to make an order under this section in respect of the matter.

20. Trade practices deemed contrary to the public interest—For the purposes of this Act, a trade practice shall be deemed contrary to the public interest only if, in the opinion of the Commission, the effect of the practice is or would be—

- (a) To increase unreasonably the costs relating to the production, manufacture, transport, storage, or distribution of goods; or
- (b) To increase unreasonably the prices at which goods are sold; or
- (c) To increase unreasonably the profits derived from the production, manufacture, distribution, transport, storage, or sale of goods; or
- (d) To prevent or unreasonably reduce or limit competition in the production, manufacture, supply, transportation, storage, sale, or purchase of any goods; or
- (e) To limit or prevent the supply of goods to consumers.

21. Orders may be subject to conditions—(1) In any order made under this Act the Commission may make such provisions, not inconsistent with this Act, as it thinks necessary or desirable for the proper administration of the order or to ensure compliance with the terms thereof, and every person

shall be deemed to have committed an offence against this Act who commits a breach of or fails to comply with any obligations imposed on him by any such provisions.

(2) Any order made by the Commission may at any time in the manner in which it was made, be amended, or may at any time be revoked.

(3) Any order made by the Commission may be general in its application or may be limited to any particular class of traders, or to an individual trader, or to a particular class of trade practices, or to a particular trade practice, or to a particular locality.

(4) Every order made by the Commission shall be published in the *Gazette* and no such order shall come into force before it has been so published.

22. Recommendations as to price control—Where after inquiry under Part III of this Act the Commission is of the opinion that it would be in the public interest that any goods to which the inquiry relates should be subject to price control under the Control of Prices Act 1947, the Commission shall, within twenty-eight days after the date of the conclusion of the inquiry, report to the Minister its findings in that respect together with any recommendation it thinks fit as to the extent of the price control it recommends.

23. Proceedings before Commission not to be held bad for want of form—Proceedings before the Commission shall not be held bad for want of form. Except on the ground of lack of jurisdiction, no proceedings or decision of the Commission shall be liable to be challenged, reviewed, quashed, or called in question in any Court:

Provided that any order made under section nineteen of this Act may be appealed against in accordance with the provisions of Part V of this Act.

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PART V

APPEALS FROM DECISIONS OF COMMISSION

24. Trade Practices Appeal Authority—For the purposes of this Part of this Act the Governor-General may from time to time appoint a suitable person to be a Trade Practices Appeal Authority (in this Part referred to as the Appeal Authority).

25. Qualifications for appointment—(1) The person appointed to be the Appeal Authority shall be a barrister or solicitor of not less than seven years' practice of the Supreme Court, whether or not he holds or has held any judicial office.

(2) Any person appointed to be the Appeal Authority may hold that office concurrently with any other office held by him.

26. Seal—The Appeal Authority shall have a seal, which shall be judicially noticed in all Courts.

27. Functions of Appeal Authority—The functions of the Appeal Authority shall be to sit as a judicial authority for the determination of appeals, in accordance with this Part of this Act, from orders made by the Commission.

28. Evidence in proceedings before Appeal Authority—(1) The Appeal Authority may receive in evidence any statement, document, information, or matter that may in his opinion assist him to deal effectually with the matter before him, whether or not the same would be otherwise admissible in a Court of law.

(2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Appeal Authority, and to all proceedings before the Appeal Authority, in the same manner as if the Appeal Authority were a Court within the meaning of that Act.

(3) The Appeal Authority shall within the scope of its jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

29. Sittings of Appeal Authority—(1) Every sitting of the Appeal Authority shall be held in public and in such place as he deems convenient having regard to the nature of the matters to be decided:

Provided that the Appeal Authority may in any case if he considers it in the interest of the parties to the appeal and of all other persons concerned, order that the sitting or any part thereof shall be held in private.

(2) Any sitting of the Appeal Authority may be adjourned from time to time and from place to place.

(3) The Appeal Authority may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before him:

Provided that no such order shall be made prohibiting the publication of the names and descriptions of the parties to the appeal or of any decision of the Appeal Authority.

(4) Except as hereinbefore provided, the Appeal Authority shall determine his own procedure.

30. Appeals to Appeal Authority—(1) There shall be a right of appeal from the whole or any part of any order made by the Commission under section nineteen of this Act.

(2) Any person who by any order under section nineteen of this Act is directed to discontinue any trade practice or not to repeat any trade practice or who by any such order is permitted to continue or repeat a trade practice subject to conditions prescribed by the order may appeal against the order or such part of the order as may be specified by the appellant.

(3) Where the order is directed to a class of persons, any person belonging to that class or any person representing that class may appeal against the order.

(4) No appeal shall lie against any order of the Commission made under the authority of section nine of this Act.

31. Procedure on appeals—(1) Every appeal to the Appeal Authority shall be forwarded to the Commission within twenty-eight days after the date of the publication in the *Gazette* of the order appealed against.

(2) For the purposes of every such appeal the Commission shall furnish to the Appeal Authority a copy of any notes of evidence taken by the Commission in connection with the subject-matter of the appeal.

(3) As soon as conveniently may be after the receipt of any appeal the Appeal Authority shall fix a time and place for the hearing of the appeal and shall give not less than fourteen clear days' public notice thereof, and shall also give fourteen clear days' notice thereof to the appellant.

32. Hearing and determination of appeal—(1) At the hearing of the appeal the Appeal Authority shall hear the evidence tendered and representations made by or on behalf of the appellant and other persons which he deems relevant to the subject-matter of the appeal.

(2) In his determination of any appeal the Appeal Authority may confirm, modify, or reverse the decision appealed against.

33. Appeal Authority may refer appeals back to Commission—(1) Notwithstanding anything to the contrary in section thirty-two of this Act, the Appeal Authority may in any case, instead of determining any appeal under that section, direct the Commission to reconsider the matter in respect of which the appeal was made.

(2) In any case where the Appeal Authority issues a direction under subsection one of this section the Commission shall again consider the matter as if no decision had previously been made.

(3) Whenever the Appeal Authority directs the Commission to reconsider a matter, the Appeal Authority shall advise the Commission of his reasons for so doing, and the Commission shall have regard to those reasons.

34. Provisions when appeal being determined—Pending the determination of any appeal under this Part of this Act, the order appealed against shall be deemed to have no effect.

35. Notice of decision on appeal—The determination of the Appeal Authority on any appeal shall be communicated by the Appeal Authority to the Commission and the Commission shall forthwith take all necessary steps to carry into effect the decision of the Appeal Authority.

36. Proceedings before Appeal Authority not to be appealed against—Proceedings before the Appeal Authority shall not be held bad for want of form. No appeal shall lie from any determination of the Appeal Authority and, except on the grounds of lack of jurisdiction, no proceeding or order of the Appeal Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

PART VI

MISCELLANEOUS

Act. 1951
No. 110 s.

37. Delegation of powers by Commissioner—(1) The Commissioner may from time to time, by writing under his hand, either generally or particularly, delegate to such officer

appointed under this Act as he thinks fit all or any of the powers exercisable by him under this Act, but not including this present power of delegation.

(2) Subject to any general or special directions given or conditions attached by the Commissioner, any officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class or to the holder for the time being of a specified office.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Commissioner.

38. Case may be stated for Court of Appeal—The Chairman of the Commission in any matter before the Commission or the Appeal Authority in any matter before the Authority may state a case for the opinion of the Court of Appeal on any question of law arising in any such matter.

39. Act to apply to services as well as goods—All the provisions of this Act shall, as far as they are applicable and with the necessary modifications, apply with respect to the performance of services (otherwise than pursuant to a contract of service between master and servant) and the rates or fees charged therefore in the same manner as they apply in respect of the sale of goods and the prices charged therefor.

40. Failure to give evidence—Every person commits an offence against this Act who—

(a) Having been summoned to appear before the Commission for the purposes of any inquiry, refuses or wilfully neglects to appear before the Commission

- in pursuance of the summons, or to take an oath or make an affirmation as a witness, or to answer any question put to him concerning the subject-matter of the inquiry, or to produce to the Commission any book or document that he is required to produce:
- (b) Resists, obstructs, deceives, or attempts to deceive the Commission or any person who is exercising or attempting to exercise any power or function under this Act or under any regulations made under this Act:
 - (c) Makes any false or misleading statement or any material omission in any information, particulars, copy, extract, or return furnished under this Act.

41. General offences—Every person commits an offence against this Act who, without lawful justification or excuse, does any act in contravention thereof or fails to comply in any particular with any obligation or duty imposed on him by this Act or by any order made by the Commission or by any other act of authority made or done pursuant to this Act.

42. Penalties for offences—Every person who commits, or attempts to commit, or does any act with intent to commit, any offence against this Act for which no penalty is provided elsewhere than in this section, shall be liable on summary conviction, in the case of an individual, to a fine not exceeding one hundred pounds, and in the case of a company or other corporation to a fine not exceeding five hundred pounds.

43. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.
