



ANALYSIS

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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 and commencement—(1) This Act may be cited as the Trade Practices (Commerce Commission and Pyramid Selling) Act 1974.

(2) Except as provided in section 20 (4) of this Act, this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

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

“Books or documents” include—

(a) Accounts, balance sheets, vouchers, records, minutes of meetings, contracts, files, and other instruments:

(b) Any information recorded or stored by means of any computer or other device whatsoever; and any material subsequently derived from information so recorded or stored:

“Commission” means the Commerce Commission constituted by this Act:

“Department” means the Department of Trade and Industry:

“Examiner” means the Examiner of Trade Practices and Prices appointed under the Trade Practices Act 1958:

“Minister” means the Minister of Trade and Industry:

“Performance of services” includes, but without limiting the generality of that expression, the doing of any thing pursuant to a contract or agreement with any person (not being a contract or agreement of service between master and servant) which confers any right or benefit on that person or any other person:

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

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

“Secretary” means the Secretary of Trade and Industry appointed under the State Services Act 1962:

“Supplier”, in relation to services, includes a person who performs services and a person who arranges the performance of services:

“Supply”, in relation to the supply of goods, includes supply or resupply by way of sale, exchange, lease, hire, or hire purchase:

“Trade” means any trade, business, industry, profession, occupation, or undertaking relating to the sale of land or goods or the performance of services.

Cf. 1947, No. 51, s. 2; 1958, No. 110, s. 2; 1961, No. 124, s. 2 (2)–(3); 1971, No. 16, s. 2; 1972, No. 107, s. 2

PART I

COMMERCE COMMISSION

3. Commerce Commission—(1) There is hereby established a Commission to be called the Commerce Commission.

(2) The Commission shall consist of 4 or more members who shall be appointed by the Governor-General on the recommendation of the Minister.

(3) One member shall be appointed as Chairman of the Commission and another shall be appointed as Deputy Chairman of the Commission.

(4) In the absence of the Chairman or during any vacancy in the office of Chairman, the Deputy Chairman shall have and may exercise all the powers, functions, and duties of the Chairman, and shall preside at all meetings of the Commission.

(5) The Governor-General, on the recommendation of the Minister, may from time to time appoint an additional member or additional members of the Commission.

(6) In recommending persons for appointment as members or additional members of the Commission the Minister shall have regard not only to their personal attributes but also to their knowledge of or experience in trade, industry, economics, accountancy, commercial law, public administration, or consumer affairs.

(7) No member of the Commission shall be personally liable for any act or default done or made by the Commission or by any member of the Commission in good faith in the course of the operations of the Commission.

Cf. 1947, No. 51, s. 3; 1958, No. 110, s. 3 (1), (2), (4)

4. Term of office—(1) Except as provided in subsection (2) of this section, every member of the Commission shall hold office for such term as the Governor-General shall specify in his appointment, being a term not exceeding 3 years, but may from time to time be reappointed.

(2) Any member of the Commission may be at any time removed from office by the Governor-General for disability, bankruptcy, 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 Minister.

(3) Notwithstanding that the term of office of a member of the Commission has expired or that a member of the Commission has resigned his office, he shall be deemed to continue a member of the Commission for the purpose of—

- (a) Deciding any inquiry, application, or matter that was wholly heard before the expiration of his term of office or before his resignation took effect, as the case may be;
- (b) Stating any case on appeal to the Supreme Court from a decision of the Commission given while he was a member or while he was deemed to continue to be a member under the provisions of paragraph (a) of this subsection.

(4) The powers of the Commission shall not be affected by any vacancy in its membership.

5. Seal—The Commission shall have a seal, which shall be judicially noticed in all Courts and for all purposes.

Cf. 1947, No. 51, s. 4; 1958, No. 110, s. 3 (5)

6. Meetings of Commission—(1) Subject to this section, the Chairman shall convene such meetings of the Commission as he thinks necessary for the efficient performance of the functions assigned to it under this Act.

(2) Meetings of the Commission shall be held at such places as the Chairman determines.

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

(4) In the absence of the Chairman and the Deputy Chairman from any meeting the members present shall appoint one of their number to be the Chairman for the purposes of that meeting.

(5) At any meeting of the Commission the quorum necessary for the transaction of business shall be 3 members.

(6) All questions arising at any meeting of the Commission shall be decided by a majority of votes of the members present and voting. The presiding member shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

Cf. 1947, No. 51, s. 5 (1)–(4); 1958, No. 110, s. 4 (1)–(4)

7. Procedure of the Commission—Subject to the provisions of this Act and of any regulations made under this Act, the Commission may regulate its procedure in such manner as it thinks fit.

Cf. 1947, No. 51, s. 7; 1958, No. 110, s. 4 (5)

8. Meetings to be held in public except in special circumstances—(1) Except as provided by subsections (2) and (3) of this section, every hearing of the Commission shall be held in public.

(2) The Commission may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it.

(3) Where the Commission is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter, the Commission may—

- (a) 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;
- (b) 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;
- (c) Make an order prohibiting the publication of the whole or part of any books or documents produced at any hearing of the Commission.

(4) Every person commits an offence against this Act who acts in contravention of any order made by the Commission under paragraph (b) or paragraph (c) of subsection (3) of this section.

Cf. 1958, No. 110, ss. 5, 41

9. 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 to the members of the Commission, out of money appropriated by Parliament for the purpose, 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.

Cf. 1947, No. 51, s. 9; 1951, No. 79, s. 10 (1); 1958, No. 110, s. 7

10. Functions of the Commission—The Commission shall have the following functions—

- (a) The function of inquiring into any aspect of trade and industry involving the manufacture and distribution of goods or the supply of goods or the supply of services (including matters in the field of consumer protection or information) referred to it by the Minister:
- (b) Such other functions as are imposed on it by this Act or by any other Act.

11. Powers of inquiry and investigation—(1) For the purposes of any inquiry or investigation conducted by the Commission under this Act, 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:

Provided that the powers set out in this section apply only to books or documents relating specifically to the subject-matter of the investigation.

(2) 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.

Cf. 1947, No. 51, s. 11 (4)-(5); 1958, No. 110, s. 18 (4)-(5)

12. Powers of the Commission to take evidence—(1) At any meeting of the Commission it may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter before it, whether or not the same would be otherwise admissible in a Court of law.

(2) The Commission may take evidence on oath and for that purpose a member of the Commission or the Executive Officer of the Commission may administer an oath.

(3) A member of the Commission may by order under the seal of the Commission summon any person to appear before the Commission to give evidence as to the subject-matter of the inquiry before it, and 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.

(4) The Commission may permit a person appearing as a witness before the Commission to give evidence by tendering and, if the Commission thinks fit, verifying by oath, a written statement.

(5) 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.

Cf. 1947, No. 51, s. 11 (2)–(3); 1958, No. 110, s. 18 (2)–(3)

13. Appointment of officers and administration—(1) There shall from time to time be appointed under the State Services Act 1962 such officers of the Department as may be required for the administration of this Act.

(2) There shall also be appointed from time to time under the State Services Act 1962—

(a) An Executive Officer of the Commission:

(b) Such other officers as may be required to assist the Commission and the Executive Officer in the management of the affairs of the Commission and in the carrying out of its functions.

(3) The Department shall, at the request of the Commission, provide such administrative services, and conduct or commission such research, as may be necessary for the efficient carrying out of the Commission's functions or requirements under this Act.

Cf. 1958, No. 110, s. 10; 1961, No. 124, s. 2 (1)

14. Members and officers to maintain secrecy—(1) Every member of the Commission, the Secretary, the Examiner, and every person engaged or employed in connection with the work of the Commission, the Secretary, or the Examiner 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 the Act into effect; and

(b) Before he begins to perform any official duty under this Act, take and subscribe to 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 or by any barrister or solicitor of the Supreme Court.

(2) Every person who wilfully acts in contravention of the true intent of that oath commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both.

Cf. 1958, No. 110, s. 6

PART II

PYRAMID SELLING SCHEMES

15. Definition of pyramid selling scheme—(1) For the purposes of this Act a pyramid selling scheme is a scheme which includes the following elements—

- (a) Goods or services, or both, are to be provided by the person promoting the scheme (hereinafter referred to as “the promoter”) or by any person acting on his behalf or, in the case of a scheme promoted by two or more persons acting in concert (hereinafter referred to as the “promoters”), are to be provided by one or more of those persons, or by any other person acting on their behalf; and
- (b) The goods or services so provided are to be supplied to or for other persons under transactions effected by persons (other than the promoter or any of the promoters) who participate in the scheme (each of whom is hereinafter referred to as a participant); and
- (c) Those transactions (not being transactions between the promoter and a participant or between participants), or most of them, are to be effected elsewhere than at premises at which the promoter or any of the promoters or the participant effecting the transaction carries on business; and
- (d) The prospect is held out to participants of receiving payments or other benefits in respect of any one or more of the following matters—
 - (i) The introduction of other persons who become participants:
 - (ii) The promotion, transfer, or other change in status of participants within the trading scheme:
 - (iii) The supply of goods to other participants:

(iv) The supply of training facilities or other services for other participants:

(v) Transactions effected by other participants under which goods are to be supplied to, or services are to be supplied for, other persons:

(vi) Any matter specified in regulations made under this Act as a relevant matter for the purposes of this paragraph.

(2) For the purposes of this Act a scheme shall be taken to include the element referred to in paragraph (b) of subsection (1) of this section whether the transactions referred to in that paragraph are to be effected by participants in the capacity of servants or agents of the promoter or of one of the promoters or in any other capacity.

(3) In determining for the purposes of paragraph (c) of subsection (1) of this section, whether any premises are premises at which a participant in a scheme carries on business, no account shall be taken of transactions effected or to be effected by him under that scheme.

(4) For the purposes of this Act such a prospect as is mentioned in paragraph (d) of subsection (1) of this section shall be taken to be held out to a participant—

(a) Whether it is held out so as to confer on him a legally enforceable right or not; and

(b) In so far as it relates to the introduction of new participants whether it is limited to the introduction of new participants by him or extends to the introduction of new participants by other persons.

(5) In this section “scheme” includes any arrangements made in connection with the carrying on of a business, whether those arrangements are made or recorded wholly or partly in writing or not.

(6) In this section any reference to the provision of goods or services by a person shall be construed as including a reference to the provision of goods or services under arrangements to which that person is a party.

(7) For the purposes of this Act the term pyramid selling scheme does not include any scheme for the time being declared by the Minister by notice in the *Gazette* to be excluded from that term.

Cf. Fair Trading Act 1973 (U.K.), s. 118

16. Pyramid selling schemes—(1) After the 1st day of February 1975, no person shall act as the promoter of a pyramid selling scheme or operate any such scheme on behalf of the promoter unless—

- (a) The particular scheme is for the time being approved by the Commission pursuant to section 18 of this Act; and
- (b) Any conditions imposed by the Commission in giving its approval under that section are being observed.

(2) Every person who contravenes subsection (1) of this section commits an offence and is liable—

- (a) In the case of an individual, to a fine not less than \$100 but not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and such imprisonment, and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day or part of a day during which the offence has continued:
- (b) In the case of a body corporate, to a fine not less than \$200 but not exceeding \$50,000, and, if the offence is a continuing one, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence has continued.

17. Applications for approval of pyramid selling schemes—

(1) Any person who wishes to act as the promoter of a pyramid selling scheme may apply to the Commission for its approval of that scheme.

(2) Every such application shall be made in duplicate in a form provided or approved by the Commission, and be accompanied by evidence that adequate security will be provided by the applicant for the performance of his obligations under the scheme, including his obligations under section 20 of this Act.

(3) The Commission shall supply a copy of the application to the Examiner for investigation and report.

18. Approval of pyramid selling schemes—(1) Where an application is made to the Commission under section 17 of this Act in respect of a pyramid selling scheme, the Commission shall hold a public inquiry into the application, and after doing so shall grant its approval of the scheme only if it is satisfied—

- (a) That the effect of the scheme is not and is not likely to be contrary to the public interest in accordance with the provisions of section 20 of the Trade Practices Act 1958; and
- (b) That the retail price of any goods and services to be distributed under the scheme will not be substantially higher than the retail prices of similar goods and services, of similar quality, distributed in similar quantities otherwise than under a pyramid selling scheme; and
- (c) That provision is made in the scheme for the number of persons who are to participate in the scheme to be limited or controlled so that every person who participates in the retail sale of goods or services under the scheme in an efficient and businesslike manner will have the prospect of obtaining a reasonable reward from his participation; and
- (d) That adequate security will be provided by the applicant for the performance of his obligations under the scheme, including his obligations under section 20 of this Act to any participant in the proposed scheme who rescinds a contract in accordance with that section—

but otherwise shall refuse to approve the scheme.

(2) Where the Commission grants its approval under this section of a pyramid selling scheme, it may impose such conditions to that approval as it thinks fit and in particular, but without limiting the generality of this subsection, it may—

- (a) Limit the number of persons who may participate in the scheme; and
- (b) Define areas in which persons may participate in the scheme; and
- (c) Limit to one or more persons the number of persons who may participate in the scheme in any such area or areas; and
- (d) Prohibit any person who is the promoter of or a participant in the scheme from making, in the course of its operation, any claim which in the opinion of the Commission would be likely to mislead any person as to any benefit that may be obtained by any person from his participation in the scheme; and

(e) Require the rights and obligations of every participant under the scheme to be set out in full in an agreement in writing made between the participant and the promoter or (if more than one) each of the promoters; and

(f) Specify rights required to be conferred on every such participant, and obligations required to be assumed by the promoter or promoters, under the scheme.

(3) Section 20 of the Trade Practices Act 1958 shall, for the purposes of subsection (1) (a) of this section, be read as if there were substituted for the word "Commission" wherever it occurs, the words "Commerce Commission".

(4) The Commission shall publish in the *Gazette* such particulars as it thinks fit of every decision made by it under this section.

19. Revocation or variation of approval—(1) Where approval of a pyramid selling scheme has been granted under section 18 of this Act, the Commission may at any time on the application of the Examiner, or of the person on whose application the scheme was approved, or of any other person operating the scheme, or of any participant in the scheme,—

(a) Revoke the approval; or

(b) Alter or revoke the conditions subject to which the approval was granted, being conditions imposed under subsection (2) of section 18 of this Act; or

(c) Impose new or additional conditions.

(2) The procedure on any application under subsection (1) of this section shall be the same, with the necessary modifications, as in the case of an application for approval of a pyramid selling scheme under section 18 of this Act.

20. Statutory right to rescind contract entered into under pyramid selling scheme—(1) Where the promoter of a pyramid selling scheme or any participant enters into any contract with any participant whereby the other party acquires any right to the property in, or to the sale or distribution of, any goods or to entitlements, or to the sale of entitlements, to the performance of services, or any right to recruit any person or persons to sell or distribute or arrange the sale or distribution of any goods or entitlements to

services, or any other right, there shall be implied in that contract a term (a condition) that the other party may rescind the contract at any time and—

(a) If the rescission takes place within 1 month after the date on which the contract was made, shall be entitled—

(i) To be refunded all money paid by him under the contract for any right to the property in, or to the sale and distribution of, any goods or sales material to the extent that the goods or sales material are returned in substantially the same state as when they were delivered to him, and, where he has paid for any goods or sales material which have not been delivered to him, to be refunded all money paid by him under the contract for those goods or that sales material; and

(ii) To be refunded all money paid by him under the contract for any right to entitlements or the sale of entitlements to the performance of services to the extent that those entitlements have not been sold, and, where he has paid for entitlements which he has not received, to be refunded all money paid by him under the contract in respect of those entitlements; and

(iii) To receive by way of refund the amount by which his receipts under the contract in respect of any right (other than the right to property in, or to the sale and distribution of, any goods or to entitlements, or to the sale of entitlements, to the performance of services) acquired under the contract have fallen short of payments (other than payments of the kind described in subparagraphs (i) and (ii) of this paragraph) made by him; or

(b) If the rescission takes place more than 1 month after the date on which the contract was made, to have refunded 90 percent of the amounts that he would have received if he had rescinded the contract within one month:

Provided that he shall be entitled to have refunded 100 percent of the amounts paid by him for goods and sales material not delivered to him and for entitlements to the performance of services not received by him.

(2) The provisions of subsection (1) of the section shall apply notwithstanding any provision to the contrary in any deed, contract, instrument, or agreement.

(3) Where a pyramid selling scheme is approved by the Commission under section 18 of the Act, the Commission may approve conditions that shall apply instead of any or all of the conditions set out in subsection (1) of this section.

(4) This section shall have effect in relation to any contract entered into under any pyramid selling scheme after the 9th day of October 1974.

21. Particulars of payments—(1) The promoter of a pyramid selling scheme or any participant who enters into a contract under that scheme with any other party (being a participant) shall show in the contract the total of all amounts paid or to be paid by that other party upon entering into the contract and shall also show particulars of any amount paid or to be paid initially for—

- (a) The right to the property in, or to the sale or distribution of, any goods:
- (b) The right to entitlements to the performance of services or to sell entitlements to the performance of services:
- (c) Any other purpose.

(2) Every person commits an offence against this Act who acts in contravention of subsection (1) of this section.

Appeals From Decisions of Commission

22. Appeals to be on questions of law only—(1) Subject to subsection (4) of this section, any person who is dissatisfied with any decision of the Commission on the ground that the decision is erroneous in point of law may appeal to the Administrative Division of the Supreme Court by way of case stated for the opinion of the Court on a question of law only if,—

- (a) He is an applicant for the approval of a pyramid selling scheme under section 18 of this Act or the Examiner and the decision is one approving (with or without conditions) or refusing to approve the pyramid selling scheme or the proposed pyramid selling scheme; or

(b) He is the promoter of or a participant in any pyramid selling scheme in respect of which approval has been granted under section 18 of this Act or the Examiner and the decision is one—

(i) Revoking, or refusing to revoke, the approval; or

(ii) Altering, or refusing to alter, any conditions subject to which the approval was granted; or

(iii) Imposing, or refusing to impose, any new or additional conditions of the approval.

(3) The provisions of Part IV of the Summary Proceedings Act 1957 (except sections 113, 114, 124 to 128, 132, and 134 to 144), so far as they relate to appeals by way of case stated on a question of law only, shall apply, so far as they are applicable and with the necessary modifications, to every appeal under this section. In the application of those provisions, they shall be read as if—

(a) Every reference to a Magistrate's Court were a reference to the Commission:

(b) Every reference to a Magistrate or Justice or Justices were a reference to the Chairman of the Commission:

(c) Every reference to the Registrar of the Magistrate's Court were a reference to the Executive Officer to the Commission:

(d) Every reference to a registry of the Supreme Court or to the Registrar of the Supreme Court were a reference to the registry of the Supreme Court at Wellington or, as the case may be, to the Registrar of that Court at Wellington:

(e) Every reference to the respondent were a reference to each of the other parties to the proceedings before the Commission.

(4) Every such appeal shall be made by giving notice of appeal within 28 days after the date of the issue of the decision to which the appeal relates.

(5) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of Court.

Cf. 1958, No. 110, ss. 24 (2), 29; 1971, No. 23, s. 14

23. Hearing and determination of appeal—(1) The Court may in any case, if it considers it is in the interests of the parties or of any of them and is not contrary to the interests of other persons concerned or the public interest, order that the hearing or any part of it shall be held in private.

(2) The Court 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 it (whether heard in public or in private); but 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 Court.

(3) In its determination of any appeal, the Court may confirm, modify, or reverse the order or decision appealed against, or any part of that order or decision.

(4) The decision of the Court on any appeal under section 22 of this Act shall be final and conclusive.

Cf. 1958, No. 110, s. 27; 1971, No. 23, s. 14

24. Court may refer appeals back for reconsideration—(1) Notwithstanding anything in section 23 of this Act, the Court may in any case, instead of determining any appeal under that section, direct the Commission to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

(2) In giving any direction under this section, the Court shall—

(a) Advise the Commission of its reasons for so doing; and

(b) Give to the Commission such directions as it thinks just as to the rehearing or reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

(3) In reconsidering the matter so referred back, the Commission shall have regard to the Court's reasons for giving a direction under subsection (1) of this section and to the Court's directions under subsection (2) of this section.

Cf. 1958, No. 110, s. 28; 1971, No. 23, s. 14

25. Provisions pending determination of appeal—Pending the determination of any appeal to the Administrative Division of the Supreme Court under this Part of this Act, the order or other decision to which the appeal relates shall be deemed to have no effect.

Cf. 1958, No. 110, s. 30; 1971, No. 23, s. 14

PART III

MISCELLANEOUS PROVISIONS

26. Notices—Any notice or approval given by the Commission under or for the purposes of this Act shall be deemed to be sufficiently given if it is given in writing signed by one or more members of the Commission or by any person purporting to act by direction of the Commission, and is delivered or posted to the person or persons primarily concerned therewith, or to any person or organisation deemed by the Commission to represent the person or persons primarily concerned.

Cf. 1947, No. 51, s. 52

27. Service of notices—(1) Any notice or other document required or authorised to be served on or given to any person for the purposes of this Act may be served or given by delivering it to that person, or by leaving it at his usual or last known place of residence or business or at the address specified by him in any application or other document under this Act, or by posting it by letter addressed to him at that place of residence or business or at that address.

(2) If any such notice or other document is sent to any person by registered letter, then, unless the contrary is shown, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(3) Where for any purpose under this Act a notice or document is required to be served on a trade association, the notice or document may be served on the secretary, manager, or other similar officer of the association; and for the purposes of this Act service on the association shall, unless otherwise directed by the Commission, be deemed to be service on all persons who are members of the association or who are represented on the association by those members.

(4) Notwithstanding anything in the foregoing provisions of this section, the Commission may in any case direct the manner in which any notice or other document is to be served or given, or dispense with the service or giving thereof.

Cf. 1947, No. 51, s. 52; 1958, No. 110, s. 37A; 1961, No. 124, s. 10

28. Case may be stated for Administrative Division of Supreme Court—The Chairman of the Commission may on the application of any party to any proceedings before the Commission, or of its own motion, state a case for the opinion of the Supreme Court on any question of law arising in any matter before the Commission. Every such case stated shall be heard and determined by the Administrative Division of the Court.

Cf. 1958, No. 110, s. 38; 1971, No. 23, s. 17

29. Failure to give evidence—Every person commits an offence against this Act who 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 or other written information that he is required to produce or deceives or attempts to deceive or knowingly misleads the Commission on any evidence given or otherwise proffered.

Cf. 1958, No. 110, s. 40 (a)–(b)

30. Offences—Every person commits an offence against this Act who—

- (a) Wilfully obstructs, hinders, or deceives, or wilfully causes to be obstructed, hindered, or deceived, any person authorised to exercise any power or perform any function or duty under this Act, in the exercise or performance of any such power, function, or duty:
- (b) Threatens or assaults any person so authorised while that person is engaged in the exercise or performance of any such power, function, or duty:
- (c) Refuses or wilfully neglects to furnish to the Secretary or to the Examiner, or to any other person authorised

in that behalf by either of those officers, any information or particulars that he is required to furnish, or to produce to the Secretary or to the Examiner or to any such person, any books or documents that he is required to produce:

- (d) Makes any statement or furnishes any document, return, or other information which he knows to be false or misleading in a material particular:
- (e) Wilfully alters, suppresses, destroys, or makes any material omission in, any document, return, copy, extract, or information required to be furnished under this Act.

Cf. 1958, No. 110, s. 40 (b)–(c)

31. General penalty—Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable, in the case of an individual, to a fine not exceeding \$1,000, and, in the case of a company or other corporation, to a fine not exceeding \$5,000.

Cf. 1947, No. 51, s. 38; 1948, No. 77, s. 5 (b); 1958, No. 110, s. 42

32. Legal proceedings—(1) Except where this Act otherwise provides, every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction.

(2) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 2 years from the time when the matter of the information arose.

(3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of an offence if it is proved that the act or omission which constituted the offence took place with his authority, permission, or consent.

(4) For the purpose of this section, the continued existence of anything in a state contrary to any provision of this Act or of any regulations or notices for the time being in force under this Act shall be deemed to be a continuing offence.

Cf. 1947, No. 51, s. 35; 1958, No. 110, s. 42A; 1971, No. 23, s. 19

33. Annual report—(1) As soon as practicable after the end of each year ending with the 31st day of March the Commission shall furnish to the Minister a report of its proceedings and operations during that year.

(2) A copy of the report shall be laid before Parliament as soon as practicable after its receipt by the Minister.

34. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes—

- (a) Prescribing the procedure to be followed under this Act in respect of applications to and proceedings before the Commission:
- (b) Prescribing forms of applications and other documents required for the purposes of this Act, or authorising the Commission, the Secretary, or the Examiner to prescribe or approve such forms, and requiring the use of such forms:
- (c) Providing the procedure for the service of notices and documents under this Act:
- (d) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

This Act is administered in the Department of Trade and Industry.