

## UNFAIR TRADING AND PROFIT CONTROL.

6° Elizabeth II., No. LVII.

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No. 57 of 1957.

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**AN ACT to amend the Unfair Trading and Profit  
Control Act, 1956.**

*[Assented to 6th December, 1957.]*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Unfair Trading and Profit Control Act Amendment Act, 1957.*

(2) In this Act the Unfair Trading and Profit Control Act, 1956,

Act No. 30 of 1956,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Unfair Trading and Profit Control Act, 1956-1957.

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-  
ment.

3. Section eight of the principal Act is amended— S. 8 am.

(a) by substituting for the words, "Commissioner for Prevention of Unfair Trading" in lines four and five of the interpretation, "Commissioner", the words, "Unfair Trading Control Commissioner";

(b) by adding after the interpretation, "declared trader", the following interpretation—

"Director" means the Director of Investigation appointed under this Act;

(c) by adding after the paragraph designation, "(d)" in the interpretation of "unfair trading methods" or "unfair methods of trade competition", the subparagraph designation, "(i)"; and

(d) adding to paragraph (d) of the interpretation of "unfair trading methods" or "unfair methods of trade competition", the following subparagraph—

(ii) being a party, whether as seller or purchaser, to a sale by or to a person engaged in trade, commerce or industry, that discriminates, directly or indirectly against competitors of the purchaser, in that a discount, rebate, allowance, price concession, or other advantage, is granted to the purchaser over and above any discount, rebate, allowance, price concession, or other advantage, available at the time of the sale to the competitors in respect of a sale of goods of like quantity and quality.

S. 11A added. 4. The principal Act is amended by adding after section eleven, a section as follows:—

Appointment  
of Director  
of Investiga-  
tion.

11A. (1) The Governor may appoint an officer to be known as the Director of Investigation.

(2) The Governor may appoint the Director for such term, at such remuneration, and subject to such conditions of service, as the Governor determines, and is hereby authorised to determine.

(3) The person appointed to the office of Director shall be a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants having knowledge of commerce, trading and business affairs.

(4) The Governor may at any time appoint a person having the necessary qualifications, to be called the Acting Director, to act, and who shall act as Director during the absence of the Director or during any vacancy in the office of Director.

S. 12 am. 5. Section twelve of the principal Act is amended by adding after the word, "Commissioner", when last appearing in line two of paragraph (d), the words, "or Director or Acting Director".

S. 13A added. 6. The principal Act is amended by adding after section thirteen, a section as follows:—

General  
powers of  
Director.

13A. The Director has and may exercise such powers and functions and is entitled to such immunities as are prescribed by this Act.

7. Section sixteen of the principal Act is amended by adding after the word, "Commissioner" in line one of subsection (1), the words, "or Director". S. 16 am.

8. Section eighteen of the principal Act is amended— S. 18 am.

- (a) by deleting the words, "or conducting any inquiry" in line two; and
- (b) by substituting for the word, "Commissioner" in line two, the word, "Director".

9. Section nineteen of the principal Act is amended— S. 19 am.

- (a) by substituting for the word, "Commissioner" in line one of subsection (1), the word, "Director";
- (b) by substituting for the word, "Commissioner" in lines one, four and six of subsection (2), the word, "Director";
- (c) by substituting for the word, "Commissioner" wherever appearing in subsections (3) and (5), the word, "Director"; and
- (d) by substituting for the subsection designation "(6)", the section designation "19A".

10. Section twenty of the principal Act is amended by substituting for the word, "Commissioner" wherever appearing in the section, the word, "Director". Submission of contracts to Commissioner for certification.  
S. 20 am.

11. Section twenty-one of the principal Act is amended by substituting for the word, "Commissioner" wherever appearing in the section, the word, "Director". S. 21 am.

- S. 22 am. 12. Section twenty-two of the principal Act is amended by substituting for the word, "Commissioner" in line three, the word, "Director".
- S. 23 am. 13. Section twenty-three of the principal Act is amended by substituting for the word, "Commissioner" in line one, the word, "Director".
- S. 24 am. 14. Section twenty-four of the principal Act is amended by substituting for the word, "Commissioner" in line two, the word, "Director".
- S. 25 am. 15. Section twenty-five of the principal Act is amended—
- (a) by substituting for the word, "Commissioner" in line two of subsection (1), the word, "Director";
  - (b) by deleting the words, "in writing by the Commissioner" in lines two and three of subsection (1); and
  - (c) by substituting for the word, "Commissioner" in the last line of subsection (2), the word, "Director".
- S. 26 am. 16. Section twenty-six of the principal Act is amended by substituting for the word, "Commissioner" in line two, the word, "Director".
- S. 27 am. 17. Section twenty-seven of the principal Act is amended by substituting for the word, "Commissioner" wherever appearing in the section, the word, "Director".
- S. 28 am. 18. Section twenty-eight of the principal Act is amended—
- (a) by substituting for the word, "Commissioner" in line one, the word, "Director"; and

- (b) by substituting for the words, "his staff" in line three, the words, "an authorised officer".

19. Section twenty-nine of the principal Act is S. 29 am.  
amended—

- (a) by repealing subsection (1) and re-enacting the subsection as follows:—

(1) If as a result of investigation the Director has reason to believe that after the coming into operation of this Act, a person is or has been guilty of unfair trading, the Director, if of opinion that it is in the public interest to do so, shall charge the person with the unfair trading before the Commissioner in accordance with the provisions of this section and the Commissioner shall hold or cause to be held an inquiry into the charge in accordance with these provisions. ;

- (b) by substituting for the word, "Commissioner" in line one of subsection (2), the word, "Director";
- (c) by adding after the passage, "inquiry;" in line two of paragraph (d) of subsection (2), the word "and";
- (d) by deleting the word, "and" after the passage "inquiry;" in lines three and four of paragraph (e) of subsection (2);
- (e) by substituting for paragraph (f) of subsection (2) the following subsection (2a):—

(2a) The Commissioner shall, whenever practicable, open the inquiry on the appointed day and proceed with the hearing of the inquiry at the appointed place. ; and

(f) by adding after paragraph (a) of subsection (3) the following paragraph (ai)—

(ai) has, in relation to the inquiry, the same powers as are conferred by Part II. of this Act on the Director in relation to an investigation.

S. 35 am.

20. Section thirty-five of the principal Act is amended by substituting for the word, "is" in line two of subsection (3), the words, "and the Director are".

S. 40 am.

21. Section forty of the principal Act is amended—

(a) by adding after the word, "Commissioner" in line five of subsection (1), the words, "and Director"; and

(b) by substituting for the word, "his" in line five of subsection (1), the word, "their".

S. 41  
repealed.

22. Section forty-one of the principal Act is repealed.

