

PRICES REGULATION.

10° GEO. V., No. XLI.

No. 53 of 1919.

AN ACT to enable the prices of Food-stuffs and Necessary Commodities to be regulated.

[Assented to 17th December, 1919.]

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

1. This Act may be cited as the *Prices Regulation Act*, Short title.
1919.

2. In this Act, and in any Order in Council made under this Act, unless the contrary intention appears,— Interpreta-
tion.

“Food-stuffs” means goods declared by the Governor by notice in the *Gazette* to be food-stuffs for the purposes of this Act:

“Necessary commodities” means goods declared by the Governor by notice in the *Gazette* to be necessary commodities for the purposes of this Act:

“Retail” shall be deemed to refer to a sale to a person for the purposes of consumption or use:

“The Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor, and includes any member of the Executive Council for the time being discharging the duties of the office of the Minister:

“Wholesale” shall be deemed to refer to a sale to a person for the purpose of re-sale.

3. (1.) The Governor shall appoint three Commissioners Commiss-
sioners. for the purposes of this Act.

(2.) One of the Commissioners shall be appointed by the Governor as chairman.

(3.) Any two of the Commissioners shall be a quorum, and, subject to the next following provision, shall have all the powers and authority by this Act conferred upon the Commissioners.

(4.) If at any meeting at which two Commissioners only are present such Commissioners differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

(5.) Each Commissioner may be paid such remuneration by way of salary and allowances as the Governor determines.

(6.) The Commissioners shall inquire into and from time to time make reports and recommendations to the Minister on the prices, wholesale and retail, and the conditions of sale of foodstuffs and necessary commodities, and upon all such other matters as are within the scope of their authority.

(7.) The reports and recommendations of the Commissioners shall be presented to both Houses of Parliament, if Parliament be then in session, or within fourteen days of the commencement of the ensuing session.

(8.) In case of illness or other incapacity, or absence of a Commissioner, the Governor may appoint some person to be deputy Commissioner during such illness, incapacity, or absence. Every person so appointed shall, until his appointment is terminated by notice in the *Gazette*, have all the powers and perform all the functions and duties of a Commissioner, and be deemed for the purposes of this Act to be a Commissioner.

Powers of
Commis-
sioners.

4. The Commissioners shall, in relation to any matter as to which they have the power to furnish a report or make a recommendation under this Act, have power to—

- (a) summon witnesses;
- (b) examine witnesses, and take evidence on oath;
- (c) require the production of documents, books, and papers;
- (d) enter upon any premises and inspect any documents, books, and papers, or any stocks of food-stuffs and necessary commodities, and to authorise any other person to enter upon any premises and inspect any such documents, books, and papers, or any stocks of food-stuffs and necessary commodities; and

- (e) impound or retain any documents, books, and papers produced to them, or inspected by them, or by any other person in pursuance of this Act, but the person otherwise entitled to such documents, books, and papers shall, in lieu thereof, be entitled to a copy certified as correct by the Commissioners, and such certified copy shall be received in all courts as evidence and of equal validity with the original.

5. Any person who, having been summoned as a witness before the Commissioners—

Failure to appear as witness, etc.

- (a) fails without lawful excuse to appear in obedience to the summons; or
- (b) refuses without lawful excuse to be sworn or to make an affirmation, or to produce documents, books, and papers, or to answer questions which he is lawfully required to answer,

shall be guilty of an offence against this Act.

6. Any person who prevents or attempts to prevent the Commissioners, or any person who produces an authority in writing signed by the Commissioners, from entering upon any premises and inspecting any documents, books, and papers, or any stocks of food-stuffs and necessary commodities, or impounding any documents, books, or papers, shall be guilty of an offence against this Act.

Preventing Commissioner from entering premises, etc.

7. (1.) If the Commissioners shall so direct, any Commissioner may, either alone or with two assessors, to be appointed from time to time by the Minister, examine and take the evidence of witnesses upon any matter within the scope of the Commissioners' authority.

Evidence may be taken by a Commissioner with or without assessors.

(2.) Any evidence so received shall be reduced into writing and signed by the witness, and may be taken into consideration by the Commissioners in making any report or recommendation upon the matter to which it relates.

(3.) The powers conferred by section four may be exercised by a Commissioner and the assessors, if any, acting under this section, and the provisions of sections five and six shall apply.

(4.) Each assessor shall receive such fees and allowances for his services as may be prescribed.

Minister may require returns to be furnished.

8. (1.) The Commissioners shall have power to recommend to the Minister, as regards any particular food-stuffs or necessary commodities, that any person or class of persons holding stocks of those food-stuffs or necessary commodities be required to furnish returns to the Commissioners, and the Minister may on receipt of the recommendation, if he thinks fit, by notice in the *Gazette* require that such returns as are specified by him be furnished to the Commissioners.

(2.) Any person who refuses or fails to furnish to the Commissioners any return which he is required, in pursuance of this section, to furnish shall be guilty of an offence against this Act.

Proclaimed areas.

9. (1.) Upon the recommendation of the Commissioners, the Governor may from time to time, by Order in Council published in the *Gazette*, declare that any specified portion of the State of Western Australia shall, for the purposes of this Act, be a proclaimed area, and thereupon the area shall, so long as the Order in Council remains in force, be a proclaimed area.

(2.) Upon the recommendation of the Commissioners, the Governor may, from time to time, in like manner, declare that any proclaimed area shall cease to be a proclaimed area, and thereupon such area shall cease to be a proclaimed area.

Determination of prices.

10. (1.) The Governor may from time to time, on the recommendation of the Commissioners, by Order in Council—

(a) determine the maximum price, whether retail or wholesale, which may be charged for food-stuffs and necessary commodities in any proclaimed area;

(b) determine the conditions of the sale of food-stuffs and necessary commodities in any proclaimed area.

(2.) Any such Order in Council shall be published in the *Gazette* and shall, as from the date specified in the *Gazette*, have the force of law.

Contravention of prices and rates.

11. (1.) Any person who, in any proclaimed area, sells or offers for sale, retail or wholesale, any food-stuffs or necessary commodities at a greater price than the maximum price, retail or wholesale, as the case may be, fixed under this Act for the sale of those food-stuffs or necessary commodities shall be guilty of an offence against this Act.

(2.) For the purposes of this section, any person on whose behalf or on whose place of business any food-stuffs or necessary commodities are sold or offered for sale, retail or wholesale, at a greater price than the maximum price, retail or wholesale, as the case may be, fixed under this Act for the sale of those food-stuffs or necessary commodities, whether the food-stuffs or necessary commodities are sold or offered for sale contrary to the instructions of the person or not, shall be guilty of an offence against this Act:

Provided that this subsection shall not operate where section sixteen of this Act has been complied with, and the person on whose behalf or on whose place of business any foodstuffs or necessary commodities have been sold or offered for sale contrary to the provisions of this Act has, prior to such sale or offer for sale, given specific instructions in writing to the person who has sold or offered for sale any such foodstuffs or necessary commodities contrary to the provisions of this Act not to sell or offer for sale the same or any part thereof at a greater price than the maximum price fixed by this Act.

(3.) Any purchaser may, by action in a court of competent jurisdiction, recover from the seller the excess price of any foodstuffs or necessary commodities purchased by him:

Provided that an employee by whom the foodstuffs or necessary commodities are sold or offered for sale as aforesaid shall also be guilty of an offence against this Act.

(4.) In any proceedings for an offence against this Act, evidence that the food-stuffs or necessary commodities forming the subject of the proceedings were sold or offered for sale by, or on behalf or at the place of business of, the defendant under a description answering to the description contained in the Order in Council which the defendant, unless the contrary be proved, is alleged to have contravened shall as against the defendant be conclusive evidence that the description under which the goods were sold or offered for sale is a correct description of the goods.

12. Any person who, in any proclaimed area, whether by way of premium or otherwise howsoever, purchases or offers to purchase wholesale any food-stuffs or necessary commodities at a greater price than the maximum price fixed under this Act for the sale of those food-stuffs or necessary commodities in that area, shall be guilty of an offence against this Act.

Offering
higher price
for wholesale
purchase.

Prices fixed
to apply to
sale under
contract.

13. Where the price of any goods has been fixed under this Act, such price shall apply to—

- (a) the sale of goods after the date of fixing such price in pursuance of a contract entered into before that date, unless the Minister certifies that as regards any particular contract or class of contracts, or any part of a contract or class of contracts, it is undesirable that such price should apply;
- (b) the sale of all goods sold after the date of the fixing of such price in pursuance of a contract entered into after that date.

Refusal, etc.
to sell at
fixed prices.

14. (1.) Any person who, having in his custody or under his control any food-stuff or necessary commodity in which he usually trades, in respect of which a maximum price has been fixed under this Act, refuses or fails on—

- (a) demand of any quantity of the food-stuff or necessary commodity; and
- (b) tender of payment at the price so fixed for the quantity demanded,

to supply such food-stuff or necessary commodity in the quantity demanded shall be guilty of an offence against this Act.

(2.) In any prosecution under this section it shall be a sufficient defence to show that, on the occasion in question—

- (a) the defendant supplied a reasonable quantity of the food-stuff or necessary commodity; or had not a sufficient quantity of the food-stuff or commodity in his custody or under his control to supply the quantity demanded, in addition to the quantity required to satisfy all other contracts, then subsisting, under which he was obliged to supply quantities of the food-stuff or commodity, and the ordinary requirements of his business; or
- (b) the defendant was a wholesale trader in the food-stuff or necessary commodity, and the person who demanded to be supplied was not a retail trader therein.

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

Provided always that where any condition, stipulation, or agreement as aforesaid is approved in writing by the Commissioners, then the same shall be lawful, and shall not be deemed to be in restraint of trade nor be an offence under this Act.

15. (1.) Any person who sells any foodstuffs or necessary commodities wholesale, subject to any condition, stipulation, or agreement in restraint of trade, as hereinafter defined, commits an offence against this Act; and any such condition, stipulation, or agreement shall be void.

Sales subject to conditions in restraint of trade prohibited.

(2.) Any condition, stipulation, or agreement restricting or having the effect of restricting the sale of any foodstuffs or necessary commodities retail below a certain price, or whereby free competition in the retail sale and the price to the consumer is prejudicially affected, shall be deemed in restraint of trade within the meaning of this section.

16. Every wholesale and retail dealer in foodstuffs or necessary commodities shall conspicuously exhibit, and at all times keep exhibited on his business premises, a list of the foodstuffs and necessary commodities in which he deals, and the maximum prices and the conditions of sale, as determined from time to time under this Act.

Prices to be exhibited.

17. The Commissioners may ascertain, and may state in any report upon which their recommendations for the fixing of prices is based the percentage of profit made during any specified period by any trader in any business to which the report relates, on the amount of capital (including borrowed money) employed by the trader in such business.

Percentage of profit to be ascertained.

18. Pending the determination of prices as aforesaid, no person shall, in any proclaimed area, increase the price at which any foodstuffs or necessary commodities prescribed by regulation are sold, or offered for sale by him, until the expiration of seven days after notice in writing shall have been given by him to the Commissioners of his intention so to do.

Pending determination of prices dealers to notify intention to increase.

Every such notice shall specify the foodstuffs and necessary commodities to which it relates and the then current prices and the proposed increased prices thereof.

Any contravention of this section shall be an offence against this Act.

19. The Governor may appoint a secretary to the Commissioners and such other officers to assist in the execution of this Act as may be deemed necessary.

Secretary and other officers

Declaration of secrecy. Schedule.

20. (1.) A declaration of secrecy in the form in the schedule to this Act shall be made by every person proposed to be employed for the purposes of this Act before entering upon the duty of his office.

(2.) All declarations of secrecy under these regulations shall be lodged with and retained by the Commissioners.

Penalty: One hundred pounds or twelve months imprisonment.

Penalty.

21. (1.) Any person guilty of an offence against this Act shall on conviction be liable, if a corporation, to a fine not exceeding five hundred pounds, and if any other person, to imprisonment with or without hard labour for a period not exceeding one year, or to a fine not exceeding two hundred pounds, or both.

(2.) Every offence against this Act committed by an incorporated company shall be deemed to have been also committed by each director and managing officer of the company, unless it is proved that such offence was committed without his knowledge or consent.

Regulations.

22. The Governor may make regulations for the purposes of this Act.

Duration of Act.

23. This Act shall continue in force until the 31st day of December, 1920, and no longer.

Section 20.

THE SCHEDULE.

PRICES REGULATION ACT, 1919.

Declaration of Secrecy.

I, _____, of _____ in the State of Western Australia, do solemnly and sincerely declare that, except in the course of my duty under the above Prices Regulation Act, 1919, I will not directly or indirectly communicate or divulge any information relating to any matter which comes to my knowledge in consequence of my employment for the purposes of the said Act.

And I make this solemn declaration by virtue of Section 106 of the Evidence Act, 1906.

Declared at _____ this _____ day of _____, 19 _____ Before me—

Justice of the Peace.