

# PREVENTION OF EXCESSIVE PRICES ACT 1983.

(No. 1 of 1983).

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# PREVENTION OF EXCESSIVE PRICES.

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No. 1 of 1983.

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**AN ACT with respect to the regulation of the prices or rates charged for goods or services, and for incidental and other purposes.**

*[Assented to 25 March 1983.]*

**BE** 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:—

## PART I—PRELIMINARY.

1. This Act may be cited as the *Prevention of Excessive Prices Act 1983*. Short title.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation. Commence-  
ment.

Definitions.

3. (1) In this Act, unless the contrary intention appears—

“Commissioner” means the Prices Commissioner referred to in section 5 (1);

“committee” means prices advisory committee established under section 8;

“controlled goods” means goods the price of which is, for the time being, regulated under an order;

“controlled services” means services the rate for which is, for the time being, regulated under an order;

“declared goods” means goods for the time being declared under section 10;

“declared services” means services for the time being declared under section 10;

“documents” includes books, papers, forms and accounts and any other written records and any device by means of which information is recorded or stored;

“landed cost” means actual cost of goods landed in the store in this State of the person to or for whom or on whose behalf the goods were originally supplied or ordered, or at such other point of delivery as is determined under subsection (3);

“order” means order made under section 12;

“paragraph” means paragraph of the section or subsection in which the term appears;

“Part” means Part of this Act;

“price” or “rate” includes every valuable consideration, whether direct or indirect; and a reference to price includes a reference to rate;

“section” means section of this Act;

“services” means services (not being services provided by an employee, in his capacity as such, to his employer) provided by a person in the carrying on of an industrial, commercial, business, profit-making or remunerative undertaking (including a professional practice), and includes the provision for reward of lodging or of residential, industrial or commercial accommodation;

“subsection” means subsection of the section in which the term appears.

(2) Expressions used in an order or notice or in any other instrument made, given or issued under this Act shall, unless the contrary intention appears, have the same respective meanings as in this Act.

(3) The Commissioner may from time to time determine a point of delivery for the purpose of the definition of “landed cost” in subsection (1), and may revoke such a determination.

4. (1) Notwithstanding that by any other Act or law a person or authority is empowered to fix prices or rates in relation to goods or services, where the provisions of any order are inconsistent with any of the provisions of any other such Act or law, or of any regulation, by-law, rule or other instrument made thereunder, the provisions of the order prevail.

Relationship  
to other  
Acts, etc.

(2) In the exercise of his powers under this Act, the Commissioner shall have regard to any determination made in relation to the price or rate applicable to any goods or services under any other Act or law, but is not required to give effect to any such determination.

(3) Regulations made under and for the purpose of this Act may make provision—

(a) for the furnishing of information or documents obtained, and the employment of officers engaged, for the purposes of any other Act or law;

(b) for the implementation of the object of this Act on behalf of and under the direction of the Commissioner by a person or authority empowered to fix prices or rates under any other Act or law; and

(c) that prices or rates determined under any other Act or law shall continue to have effect as though they had been fixed under an order, and that a contravention of the terms of the determination may be penalized in accordance with those regulations,

notwithstanding the provisions of that other Act or law.

#### PART II—ADMINISTRATION.

Prices  
Commis-  
sioner  
and other  
officers.

5. (1) The person for the time being holding or acting in the office of Commissioner for Consumer Affairs under the Consumer Affairs Act 1971 is the Prices Commissioner for the purposes of this Act.

(2) The Commissioner shall be assisted in the administration of this Act by—

(a) the officers appointed under section 15 (1) of the Consumer Affairs Act 1971 to assist the Commissioner for Consumer Affairs; and

- (b) such officers, other than those referred to in paragraph (a), appointed under and subject to the Public Service Act 1978 as may be necessary to assist the Commissioner in that administration.

6. (1) The object of this Act is to make provision by way of inquiry, investigation, price or rate fixing and enforcement procedures for the purpose of preventing—

Object and purposes.

- (a) excessive prices being charged for the sale of goods, whether in relation to wholesale or retail trading; or
- (b) excessive rates being charged for the supply of services.

(2) Without limiting the generality of subsection (1), the Minister, the Commissioner and officers concerned with the administration of this Act shall give particular attention to those goods or services which may be essential to the welfare of the community.

7. (1) The functions of the Commissioner under this Act are—

General administration, and the powers and duties of the Commissioner.

- (a) to advise the Minister as to the administration of this Act, generally and in relation to particular matters; and
- (b) to administer the scheme of price control established under this Act and to investigate and prosecute contraventions.

(2) Other than in relation to the power of the Commissioner to fix maximum prices or maximum rates pursuant to section 12, the Minister may, from time to time and either generally or with respect to a particular matter, give directions to the Commissioner with respect to his functions, or as to the exercise of his powers or the carrying out of his duties, and the Commissioner shall give effect to those directions.

(3) The Commissioner shall—

- (a) monitor and keep under continuous review the prices and rates applicable in the State to goods and services generally and in particular to those taken into account in the Consumer Price Index (all groups) Perth as issued by the Australian Bureau of Statistics under the authority of the Census and Statistics Act 1905 of the Commonwealth; and
- (b) keep the Minister fully informed, and when required report to him, concerning movements in those prices and rates.

(4) For the purposes of this Act, the Commissioner—

- (a) shall make such inquiries or investigations, or seek such advice, as he considers necessary;
- (b) may cause notice of his intention to inquire into or investigate any matter to be published in a newspaper circulating throughout the State for the purpose of enabling persons and bodies to submit to him representations concerning that matter;
- (c) may take into account any representations, whether oral or documentary, made to him by persons who, in his opinion, have a substantial interest in a matter relating to the price of any goods or the rate for any service or by any body which, in his opinion, represents a substantial number of persons who have such an interest;
- (d) may, in respect of any investigation, determine the extent, if any, to which—
  - (i) he will hold proceedings in public; and



(ii) persons interested or claiming to be interested in a matter are to be allowed to be present or to be heard, either by themselves or by their representatives, or to cross-examine witnesses or otherwise participate in the consideration of that matter;  
and

(e) may, unless otherwise directed by the Minister, determine the procedure to be used in relation to any investigation.

(5) The Commissioner shall not later than 31 October in each year prepare and deliver to the Minister in respect of the preceding year ending 30 June a report as to the operation and administration of this Act, and may include in his report such observations and recommendations as he thinks fit.

(6) The Minister shall cause a copy of the Commissioner's report to be laid before each of the Houses of Parliament within 12 sitting days of such House after receipt of the report by the Minister.

8. (1) The Minister may appoint one or more prices advisory committees to advise—

Prices  
advisory  
committees.

(a) whether or not particular goods or services should be declared under section 10; or

(b) whether or not maximum prices or rates in relation to particular declared goods or declared services should be fixed under section 12 or continue in force,

and a committee so appointed shall make recommendations upon those matters and such other matters as are referred to the committee by the Minister or the Commissioner.

(2) The Minister or the Commissioner may give directions to a committee as to the nature and extent of its terms of reference.

(3) The membership of a committee comprises—

- (a) a chairman;
- (b) not more than 3 trade representatives and an equal number of consumer representatives; and
- (c) such other persons, if any, as the Minister determines,

appointed in writing by the Minister.

(4) A meeting of a committee shall not be held or continued unless the chairman of the committee and not less than—

- (a) one trade representative; and
- (b) one consumer representative,

thereof are present, but otherwise any matter before a committee may be determined by majority vote of the members present and voting.

(5) The chairman of a committee does not have a deliberative vote on any matter before a meeting, but, when the votes for and against the matter are equal, the chairman may—

- (a) exercise a casting vote and decide that matter; or
- (b) adjourn that matter for consideration by a subsequent meeting of the committee.

(6) A committee—

- (a) shall hold meetings at such times and places, and on such terms of reference, as the Minister or the Commissioner directs;
- (b) may adjourn and reconvene such meetings as may be necessary; and
- (c) otherwise, subject to this section, may regulate its own proceedings.

(7) In this section—

“consumer representative” means a person appointed to a committee to represent consumers of goods or users of services;

“trade representative” means a person appointed to a committee to represent sellers of goods or suppliers of services, being a person who is or has been engaged in the business of manufacturing or selling goods or of supplying services, as the case requires.

9. (1) A member of a committee shall, subject to this section, hold office for such period not exceeding 3 years as is specified in the instrument of his appointment, but is eligible for re-appointment.

Terms of  
office of  
members of  
committees

(2) If a member of a committee—

- (a) is an undischarged bankrupt or a person who is an insolvent under administration and whose property is subject to an order, arrangement, or composition under the laws relating to bankruptcy;
- (b) dies or otherwise becomes permanently incapable of performing his duties as such a member;
- (c) resigns his office by writing under his hand addressed to the Minister; or
- (d) absents himself, except on leave duly granted by the Minister, from 3 consecutive meetings of the committee (for which purpose where a meeting has been adjourned and re-convened each part of that meeting shall be taken to constitute a separate meeting) of which he has had notice,

the office of that member becomes vacant.

(3) The Minister may grant leave of absence to a member of a committee on such terms and conditions as the Minister determines.

(4) The members of a committee may be paid such remuneration and allowances as the Minister determines.

PART III—REGULATION OF PRICES AND RATES.

*Division 1—Declaration of goods and services.*

Declaration  
of goods  
and  
services.

10. (1) The Minister may by notice published in the *Gazette* declare—

- (a) any goods to be declared goods; or
- (b) any service to be a declared service,

for the purposes of this Act, and for so long as the notice remains in force an order under section 12 may be made in relation to goods or services of that kind.

(2) A notice under this section—

- (a) may, by notice published in the *Gazette*, be amended, varied or revoked by the Minister; and
- (b) takes effect on the date specified in that notice or on the date of its publication in the *Gazette*, whichever is the later date.

(3) Without limiting the generality of subsection (1), the Minister may declare goods or services—

- (a) by reference to differences in the quantity, quality, volume or description of the goods sold or the services supplied, or to different forms, modes, stages, conditions, terms or localities of trade, commerce, sale or supply;
- (b) in relation to the whole or any part of the State; or
- (c) on or subject to any condition or circumstance.

(4) A notice under this section may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the declaration to which the notice relates.

11. (1) A notice under section 10 may require that—

Procedure when increase in price or rate of declared goods or declared service proposed.

- (a) any person generally;
- (b) any person included in a class of persons;
- (c) any person to whom a notice is given in pursuance of the declaration; or
- (d) any particular person,

being a person who is a manufacturer or seller of declared goods or a supplier of a declared service, notify, not less than 14 working days prior to the day on which that proposed increase is to take effect, the Commissioner in writing of any proposed increase in the price of those declared goods or in the rate for that declared service to which that person proposes to give effect, and a person shall not refuse or fail to comply with that requirement.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(2) A person to whom subsection (1) applies shall submit with the notification to be made by him under that subsection a document setting out to the best of his knowledge and ability—

- (a) the cost to the manufacturer, seller or supplier of the declared goods or declared service;
- (b) the methods and principles in accordance with which the manufacturer, seller or supplier has arrived at that cost and at the proposed increase in the price of the declared goods or the rate of the declared service;
- (c) in the case of a manufacturer or seller of goods, the price at which, and the conditions on which, he has sold, sells or proposes to sell, the declared goods;
- (d) in the case of a supplier of services, the rate at which, and the conditions on which, he has supplied, supplies or proposes to supply, the declared service; and

- (e) such other particulars as are prescribed or are required by a notice given under subsection (1) (c).

(3) In subsection (1)—

“working day” means day which is not—

- (a) a Sunday or a Saturday; or  
(b) a bank holiday or public holiday within the meaning of the Public and Bank Holidays Act 1972.

*Division 2—Determination of maximum prices and rates for goods and services.*

Determina-  
tion of  
maximum  
prices and  
rates.

12. (1) Subject to subsection (5), the Commissioner may, with respect to any declared goods or declared service, by order published in the *Gazette* fix—

- (a) the maximum price at which any declared goods may be sold; or  
(b) the maximum rate at which any declared service may be supplied,

either generally throughout the State or in any specified part of the State.

(2) Without limiting the generality of subsection (1), the Commissioner may fix maximum prices or maximum rates—

- (a) differentially, according to differences in the quantity, quality, volume or description of the goods sold or the services supplied, or by reference to different forms, modes, stages, conditions, terms or localities of trade, commerce, sale or supply;  
(b) for the whole or different parts of the State and differentially for different parts of the State;

- (c) on a sliding scale;
  - (d) on and subject to any condition or circumstance;
  - (e) for cash, delivery or otherwise, or on terms, and in any such case inclusive or exclusive of the cost of packing or delivery;
  - (f) on landed cost, or other cost, together with a percentage thereon, or a specified amount, or both;
  - (g) according to, or on, any principle or method of calculation specified by the Commissioner;
  - (h) relative to such standards of measurement, weight, capacity or otherwise as he thinks proper, or relative to prices or rates charged by individual traders or suppliers on any date specified by the Commissioner, with such variations (if any) as in the special circumstances of the case the Commissioner thinks fit, or so that such prices or rates shall vary in accordance with a standard, or time or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the Commissioner.
- (3) An order may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of that order.
- (4) An order—
- (a) may, by an order published in the *Gazette*, be amended, varied or revoked by the Commissioner; and
  - (b) takes effect on the date specified in the order or on the date of its publication in the *Gazette*, whichever is the later date.

(5) The Commissioner shall, before causing an order to be published in the *Gazette*, serve a draft of the proposed order on the Minister, and shall not cause the proposed order to be so published—

- (a) unless the Minister has within 7 days of the receipt of the draft of the proposed order informed the Commissioner that he does not propose to give to the Commissioner a direction to refrain from publishing the order; or
- (b) if the Minister, in the public interest, has within 7 days of the receipt of the draft of the proposed order directed the Commissioner to refrain from publishing the order, and the Minister shall cause any direction given under paragraph (b) to be published in the *Gazette*.

(6) The powers of the Commissioner of or in relation to fixing—

- (a) the maximum price at which any declared goods may be sold; and
- (b) the maximum rate at which any declared service may be supplied,

shall extend to and in relation to the fixing of the maximum remuneration for the sale of any declared goods and the supply of any declared service for an undivided remuneration, and a transaction in respect of which a maximum remuneration has been so fixed is deemed to be the supply of a controlled service at a rate equal to the undivided remuneration charged.

(7) For the purposes of this Act, and of any order, unless the contrary intention appears—

- (a) the sale of any goods shall be deemed to include the supply in connection with that sale (whether or not for a separate remuneration) of any service customarily supplied by vendors in connection with such a sale without any separate remuneration;



- (b) the supply of any service shall be deemed to include the sale or supply in connection with the service (whether or not for a separate price or remuneration) of any goods customarily sold or supplied by persons supplying such a service without any separate price or remuneration; and
- (c) a maximum price fixed includes the cost of the wrapping or packaging of the goods to which the price applies.

13. (1) The Minister may request the Commissioner to consider further any matter dealt with by any order or any part of an order and may, by notice published in the *Gazette*—

Power of Minister to suspend order.

- (a) suspend the operation of an order or any part of an order for such period after the publication of the notice as is specified therein;
- (b) extend the period for which the operation of an order or part of an order is suspended under this subsection; or
- (c) terminate the suspension under this subsection of an order or part of an order.

(2) During the period for which the operation of an order or part of an order is suspended by notice published under subsection (1), the maximum price or rate (if any) that prevailed immediately before the coming into operation of that order or part of an order applies.

*Division 3—Enforcement of maximum prices and rates.*

14. (1) A person shall not sell or offer for sale any controlled goods or supply or offer to supply any controlled service at a greater price or rate

Offence to sell goods at price higher than maximum price or supply service at rate higher than maximum rate.

than the maximum price or maximum rate fixed under this Act for the sale of those goods or the supply of that service.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(2) Where an order fixing a maximum price or maximum rate for any goods or service takes effect a person shall not, without the prior authorization of the Commissioner, sell or offer for sale any of those controlled goods, or supply or offer to supply that controlled service, on terms or conditions different from those on which substantially identical goods or services were sold or supplied by him immediately prior to the order taking effect, if that sale or offer for sale or supply or offer to supply on those terms and conditions would result directly or indirectly—

- (a) in a greater price or rate than the maximum price or rate fixed under this Act in relation thereto being obtained; or
- (b) in any other manner to the advantage of that person.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(3) For the purposes of this section, a person on whose behalf, or at whose place of business, any controlled goods are sold or offered for sale, or any controlled service is supplied or offered, at a greater price or rate than the maximum price or rate fixed under this Act for the sale of those goods or the supply of that service, whether the goods are sold or offered for sale or the service is supplied or offered contrary to the instructions of that person or not, shall be deemed to have contravened the provisions of this section, unless the court is satisfied that the sale, supply, or offering took place without his knowledge and that he has exercised all reasonable diligence to secure compliance with this Act.

15. A person shall not, in relation to an agreement for the sale of any controlled goods, deliver or offer to deliver—

Delivery of goods less in quantity than, or of inferior quality to, those sold.

- (a) a quantity of goods less than the quantity purported to be sold; or
- (b) goods inferior in quality to the goods purported to be sold,

unless he shows that he did not so deliver or offer to deliver with intent to evade any other provision of this Act.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

16. (1) A person shall not without the consent in writing of the Commissioner—

Alterations in mode of packing or recipe or formula.

- (a) pack or put up for sale any controlled goods in a container or quantity smaller than the container or quantity ordinarily offered for sale in relation to those goods immediately before the date of fixation;
- (b) pack or put up for sale in a container a quantity of controlled goods smaller than the quantity of those goods ordinarily packed or put up for sale in a container of that size immediately before the date of fixation;
- (c) alter the formula or recipe ordinarily used by him or a predecessor in business on or immediately before the date of fixation in the manufacture or production of any controlled goods; or
- (d) as regards any particular controlled goods, manufacture those goods in a quality inferior to the quality manufactured by him or a predecessor in business on or immediately before the date of fixation.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(2) For the purposes of this section, proof that immediately before the date of fixation a person dealing in the ordinary course of trade in any controlled goods in respect of which any proceedings have been instituted—

- (a) sold or had for sale goods of that description purporting to have been packed or put up for sale by the defendant or a predecessor in business of the defendant in a particular quantity, that particular quantity shall, unless the contrary is shown, be presumed to be the quantity ordinarily offered for sale by the defendant immediately before the date of fixation; and
- (b) sold or had for sale any goods (purporting to have been manufactured or produced by the defendant) that appear by analysis or otherwise to have been manufactured or produced in accordance with a particular formula or recipe, that particular formula or recipe shall, unless the contrary is shown, be presumed to be the formula or recipe that was ordinarily used by the defendant immediately before the date of fixation in the manufacture or production of those goods.

(3) It is a defence to any proceedings in respect of an offence against subsection (1) (c) if the defendant proves that—

- (a) the alteration in the formula or recipe concerned was not made in anticipation or consequence of any investigation or proceeding under this Act in respect of the controlled goods the formula or recipe of which was altered; and
- (b) the controlled goods manufactured or produced in accordance with the formula or recipe concerned, as altered, were not inferior to those manufactured or produced before the alteration.

(4) In this section—

“date of fixation”, when used in relation to any goods, means the most recent date on which an order fixing the price of those goods took effect.

17. A person shall not—

(a) sell or offer for sale any controlled goods together with any other goods, whether controlled or not, or with any service, whether controlled or not, without separately specifying the price of those controlled goods; or

(b) supply or offer to supply any controlled service together with any other service, whether controlled or not, or with any goods, whether controlled or not, without separately specifying the price of that controlled service,

Price or rate of controlled goods or service to be specified separately.

unless the transaction as a whole is one—

(c) in respect of which a maximum undivided remuneration has been fixed under this Act; or

(d) which by reason of section 12 (7) is deemed to be either a sale of goods or the supply of a service.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

18. (1) If the Commissioner is of the opinion that it is necessary so to do in order to prevent a person (in this section referred to as “the vendor”) who carries on the business of selling controlled goods or supplying a controlled service from continuing to operate a scheme that the Commissioner is satisfied—

Power of Commissioner to prohibit certain transactions.

(a) involves a departure from his normal course of trading;

(b) would not be operated but for the provisions of this Act; and

- (c) has the effect that the real cost (taking into account losses involved in transactions connected with that scheme) to a purchaser of goods from the vendor of any controlled goods so purchased, or to a person to whom services are supplied by the vendor of any controlled service so supplied, is more than the maximum price or rate fixed under this act for the sale of those goods or the supply of that service,

the Commissioner may, by notice in writing directed to the vendor and published in the *Gazette* or served on the vendor, specify a class of transactions (being in the opinion of the Commissioner a class of transactions that is being used for the purposes of the scheme) to be a class of transactions to which this section applies.

(2) A notice under this section—

(a) takes effect—

(i) on the date specified in that notice;

or

(ii) on the date of its publication in the *Gazette* or of its service on the vendor, as the case requires,

whichever is the later date; and

(b) may at any time be amended, varied or revoked by the Commissioner by a subsequent notice in writing directed to the vendor and published in the *Gazette* or served on the vendor.

(3) Except with the consent of the Commissioner, a person to whom a notice under this section is directed shall not, while that notice has effect, enter into a transaction included in a class of transactions specified in the notice.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(4) A notice under this section shall specify the class of controlled goods or controlled services in relation to which, in the opinion of the Commissioner, the scheme concerned is being operated, but has full force and effect notwithstanding that it does not specify or describe in detail the scheme that, in the opinion of the Commissioner, makes that notice necessary so long as the notice gives a general description of the scheme.

(5) A reference in this section to a person includes a reference to persons included in a class of persons, and this section, with such adaptations as are necessary, applies accordingly.

19. (1) A person who has in his custody or under his control any controlled goods for sale shall not refuse or fail—

Refusal to  
sell goods  
at fixed  
price.

(a) on demand for a quantity of those goods;  
and

(b) on tender of payment at the maximum price fixed under this Act for that quantity of those goods,

to sell those goods in the quantity demanded.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(2) In proceedings in respect of an offence against subsection (1) it is a defence to show that, on the occasion in question—

(a) the defendant supplied a reasonable quantity of the controlled goods demanded or, after making reasonable provision for private consumption or use, had not a sufficient quantity of those goods in his

custody or under his control to supply the quantity demanded in addition to the quantity required to satisfy—

- (i) all other contracts then subsisting, under which he was obliged to supply quantities of those goods for consumption or use; and
  - (ii) the ordinary requirements of his business;
- (b) the defendant was a wholesale trader in the controlled goods demanded, and the person who demanded to be supplied was not a manufacturer or a retail trader therein or in any goods made or partly made therefrom; or
- (c) the defendant—
- (i) would have had reasonable grounds for refusing or failing to supply the goods to the person who demanded to be supplied, had those goods not been controlled goods;
  - (ii) was acting in accordance with a practice for the time being approved by the Commissioner;
- or
- (iii) otherwise had reasonable cause, not contrary to the object and purposes of this Act, for so acting.

(3) For the purpose of determining what is a reasonable quantity of any controlled goods within the meaning of this section, 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 that demand carrying on business as a retail trader in the controlled goods demanded, either alone or with other goods.



20. (1) A person who supplies any controlled service shall not refuse or fail—

Refusal to supply service at fixed rate.

- (a) on demand for the supply of that service;  
and
- (b) on tender of payment at the maximum rate fixed under this Act for the supply of that service,

to supply that service.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(2) In proceedings in respect of an offence against subsection (1), it is a defence to show that, on the occasion in question—

- (a) the defendant did not have sufficient capacity for service under his control to supply the controlled service demanded in addition to the service required to satisfy—
  - (i) all other contracts then subsisting under which he was obliged to supply that service; and
  - (ii) the ordinary requirements of his business; or
- (b) the defendant—
  - (i) would have had reasonable grounds for refusing or failing to supply the service to the person who demanded the supply of that service, had the service not been a controlled service;
  - (ii) was acting in accordance with a practice for the time being approved by the Commissioner; or
  - (iii) otherwise had reasonable cause, not contrary to the object and purposes of this Act, for so acting.

Refusal to sell or supply unless other goods or services are also purchased.

21. A person shall not—

- (a) sell or offer for sale any controlled goods subject to any condition requiring the purchase of any other goods, whether controlled or not, or the acceptance of the supply of any service, whether controlled or not;
- (b) supply or offer to supply any controlled service subject to any condition requiring the purchase of any goods, whether controlled or not, or the acceptance of the supply of any other service, whether controlled or not.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

“Offer” includes notification of price or rate.

22. For the purposes of this Act—

- (a) the notification by any person of the price proposed by him for the sale of any goods by the publication or exhibition of a price list, by furnishing a quotation, or by exposing or exhibiting the goods in association with any mark, ticket, placard or notice indicating price shall be deemed to constitute an offer to sell those goods at the price so notified; and
- (b) the notification by any person of the rate proposed by him for the supply of any service by the publication or exhibition of a list of rates, or by furnishing a quotation, shall be deemed to constitute an offer to supply that service at the rate so notified.

#### PART IV—OBTAINING INFORMATION.

Power of Commissioner to inquire, investigate, and obtain information.

23. (1) The Commissioner may, for the purpose of any inquiry or investigation which he considers necessary for the exercise of any of the powers

conferred, or for the performance of any of the duties and functions imposed, on him by or under this Act—

- (a) require any person—
  - (i) to give him such information as he requires; and
  - (ii) to answer any question put to the person,  
in relation to any matter the subject of such an inquiry or investigation;
- (b) require that any information or answer referred to in paragraph (a) be given—
  - (i) orally, or in writing, as may be specified by the Commissioner;
  - (ii) at a time and place specified by the Commissioner; or
  - (iii) on oath or affirmation or by statutory declaration (for which purpose the Commissioner may administer an oath or affirmation and has the authority of a Commissioner for Declarations);
- (c) by notice in writing, require the production of any documents relating to any such inquiry or investigation;
- (d) enter at all reasonable times and search any premises and inspect any documents that he finds therein and take samples of any stocks of goods and inspect any service carried on therein;
- (e) make a copy or abstract of any document produced to, or inspected by, him under this Act, or of any entry made therein, and in the absence of proof to the contrary any such copy certified as correct by the Commissioner shall be received in all courts as evidence of, and of equal validity as, the original.

(2) Before entering any premises for the purposes of this Act, the Commissioner or other person authorized shall display to the person, if any, affording him entry a warrant issued to him under subsection (3) and—

- (a) in the case of the Commissioner, a document signed by the Minister and certifying that he is the Commissioner; or
- (b) in the case of a person otherwise authorized under this Act, a document signed by the Commissioner and certifying that that person is so authorized.

(3) On receiving an application for a warrant to enter any premises made to him by the Commissioner or other person authorized, a Justice of the Peace or stipendiary magistrate may, on being satisfied that that warrant is sought in good faith to enable the Commissioner or that person to enter the premises referred to in that application for the purpose of conducting an inquiry or investigation under this Act, issue that warrant to the Commissioner or that person, as the case requires.

Sufficient notice to be given to enable questions, etc. to be answered.

24. (1) A person is not obliged to answer any question put to him under this Act unless he has first been informed by the Commissioner that he is required and is obliged to do so by virtue of this Act, nor is a person obliged to furnish any information or answer any question until he has been given sufficient notice to enable him to obtain the information or ascertain the answer, as the case requires.

(2) Without prejudice to section 11 of the Evidence Act 1906, when a person is by virtue of this Act required to—

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to do so on the ground that the information, answer or document may tend to incriminate him or render him liable to any penalty,

but no answer, information or document so given or produced by him shall be admissible in evidence in any proceedings against him other than proceedings in respect of an offence against this Act.

25. (1) When under this Act a person is required by the Commissioner to give any information, answer any question or produce any document, the person shall not—

Failure to supply information.

- (a) fail or refuse to give that information, answer the question, or produce the document, without reasonable excuse; or
- (b) wilfully furnish any information, answer or document that is false or misleading in a material particular.

Penalty: \$2 000.

(2) It is a defence in any proceeding for an offence against paragraph (a) or (c) of subsection (1) for the defendant to show that he had not been informed before failing or refusing to give the information, to answer the question or to produce the document, as the case requires, that he was required under this Act to give the information or answer, or produce the document, as the case requires.

26. A person shall not prevent or attempt to prevent the Commissioner from entering premises or otherwise obstruct or impede the Commissioner in the exercise of his powers under this Act.

Obstructing Commissioner.

Penalty: \$2 000.

27. (1) For the purposes of any inquiry or investigation conducted under this Act, the Commissioner may by notice in writing require a person to furnish to him, within a specified time and in a specified

Power of Commissioner to require returns.

form, a return setting forth to the best of the knowledge and ability of that person such of the following particulars as are specified in the notice, namely—

- (a) the quantity of any goods in his possession or under his control at a specified date and held for sale;
- (b) the cost to the person of the goods referred to in paragraph (a);
- (c) the methods and principles in accordance with which the person arrives at the cost referred to in paragraph (b);
- (d) if the maximum price of the goods referred to in paragraph (a) has not been fixed under this Act, the prices, wholesale or retail, at which, and the conditions on which, the person has sold, sells or proposes to sell those goods;
- (e) the price, wholesale or retail, charged for the goods referred to in paragraph (a) by the person on such date as the Commissioner specifies, and the conditions of any such sale; and
- (f) such further particulars relating to the goods referred to in paragraph (a) as are specified in that notice.

(2) The Commissioner may by notice in writing require any person engaged in the supply of a service to furnish to him, within a specified time and in a specified form, a return setting forth to the best of the knowledge and ability of that person such particulars relating to the service as are specified in that notice.

(3) A return furnished under this section shall be verified by statutory declaration.

(4) A return furnished by a person under this section shall not be admissible in evidence in any proceedings against him other than proceedings in respect of an offence against this Act.

(5) A person who is required by notice given under this section to furnish a return shall not—

- (a) fail or refuse to comply with any of the requirements of that notice; or
- (b) wilfully furnish any information that is false or misleading in a material particular.

Penalty: in the case of an individual, \$2 000 and, in the case of a body corporate, \$5 000.

(6) In this section, a reference to goods or services is a reference to goods or services of a kind which the Commissioner has, by notice published in a newspaper under section 7 (4) (b), indicated as being the subject of inquiry or investigation.

28. A reference in this Part to the Commissioner shall be deemed to include a reference to a person who is—

“Commis-  
sioner”  
includes  
other  
officers.

- (a) approved by the Minister; and
- (b) authorized in writing by the Commissioner, which the Commissioner is hereby empowered to do,

to investigate any matter under this Act.

#### PART V—OFFENCES AND PENALTIES.

29. If any chairman, member of the governing body, director, manager, secretary, or officer of a body corporate knowingly authorizes or permits the commission of an offence against this Act by the body corporate, he shall be deemed to have committed that offence and be punishable as an individual accordingly.

Liability of  
officers etc.,  
of body  
corporate.

30. (1) If, in any proceedings in respect of an offence against this Act, the court concerned is satisfied that in relation to the sale of any controlled goods or the supply of any controlled service a price or rate in excess of the maximum price or rate fixed under this Act for the sale of those goods or the

Court may  
order refund  
of amount  
paid in  
excess of  
maximum  
price or  
rate.

supply of that service has been paid to the defendant by a person, that court may, in addition to any other penalty that may be imposed, order the defendant to refund to the person the difference between that maximum price or rate and the price or rate actually paid by the person, and the like proceedings may be taken on that order as if that order were an order or judgment given or made in an action in a court of competent jurisdiction by the person against the defendant for the recovery of an amount equal to that difference.

(2) A certificate given by the Commissioner specifying the amount by which the price or rate paid by a person for any goods or service exceeded the maximum price or rate fixed under this Act for the sale of those goods or the supply of that service is, for the purpose of subsection (1), evidence of the matters stated therein.

Complaints.

31. A complaint for an offence against this Act may be made at any time within 12 months from the time when the matter of complaint arose.

PART VI—MISCELLANEOUS.

Application  
of orders  
and notices.

32. An order or notice under this Act may be made or given so as to apply, according to its tenor, to—

- (a) persons generally;
- (b) all or any persons included in a class of persons;
- (c) all or any persons in any area;
- (d) any particular person;
- (e) the sale of goods or supply of a service or of services to a particular person or a class of persons by a particular person;
- (f) goods or services generally;



- (g) any class of goods or any class of services;
- (h) all or any goods or services in any area; or
- (i) specified goods or a specified service.

33. (1) Subject to subsection (2), the Minister, the Commissioner, an officer referred to in section 5 (2), a member of a committee, or a person acting pursuant to regulations referred to in section 4 (3) or authorized in accordance with section 28 shall not either directly or indirectly use, make a record of, or divulge or communicate to any person information that comes to his knowledge in consequence of his official position under or in relation to this Act. Secrecy.

Penalty: \$5 000.

(2) Nothing in subsection (1) prohibits the use, recording, divulging or communication of any information—

- (a) for the purposes of this Act or any proceedings under this Act;
- (b) in the course of an exchange of information with persons or bodies having power to regulate prices or rates in any other State or in a Territory;
- (c) in the course of furnishing information or documents pursuant to regulations referred to in section 4 (3) (a);
- (d) in the case of a person who also exercises powers or performs duties or functions under the Consumer Affairs Act 1971, in the course of the exercise of his powers or performance of his duties or functions under that Act; or
- (e) to the Minister to whom the administration of the Salaries and Wages Freeze Act 1982 is for the time being committed, for the purposes of section 16 of that Act.

Regulations.

34. The Governor may make regulations prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular—

- (a) creating offences against those regulations and prescribing penalties, not exceeding—
  - (i) in the case of an individual, \$500; or
  - (ii) in the case of a body corporate, \$1 000,

in respect of those offences;

- (b) requiring any information or document required to be given or furnished thereunder to be verified by statutory declaration.

Expiry of  
this Act,  
and of  
orders, etc.

35. (1) The provisions of this Act other than this section shall cease to have effect—

- (a) on such day as is specified in a resolution passed by each of the Houses of Parliament;
- or
- (b) if no such resolution is passed prior to 31 December 1983, on that day.

(2) The operation of subsection (1) shall not affect the previous operation of this Act or the validity of any order made or action taken thereunder, or any penalty incurred in respect of any contravention of, or failure to comply with, this Act or any order, or any proceedings or remedy in respect thereto.

(3) Where an order is revoked or subsection (1) has effect, in relation to any provision of this Act or to an order—

- (a) section 16 of the Interpretation Act 1918 shall apply as if that provision or order were an expired enactment; but
- (b) section 11 of The Criminal Code shall not apply.