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PRICES CONTROL ACT, 1948.

Crown Law Department,
Perth, 20th June, 1949.

HIS Excellency the Governor in Council, acting pursuant to the provisions of section 14 of the Prices Control Act, 1948, has been pleased to make the following regulations.

H. B. HAYLES,
Under Secretary for Law.

Schedule.

Citation.

1. These regulations may be cited as the Prices Control Regulations, 1949.

Revocation and Substitution.

2. (a) The regulations in operation pursuant to the provisions of the Prices Control Act, 1948, are hereby revoked and the following regulations are made in their stead.

Transition Provisions.

Cf. No. 30 of 1918, Section 15.

- (b) The provisions of section 15 of the Interpretation Act, 1918-1938, shall apply as if the regulations hereby revoked were an Act and these regulations were an Act repealing and re-enacting those regulations with modifications.

Definitions.

Cf. Commonwealth Regulation No. 3.

3. (1) In these regulations, unless the context otherwise requires—
“Act” means the Prices Control Act, 1948;
“authorised officer” means any person appointed by the Commissioner to be an authorised officer for the purposes of these regulations;
“Commissioner” means the person appointed to the office of Prices Control Commissioner pursuant to and for the purposes of the Act;
“Commonwealth Regulations” means the National Security (Prices) Regulations in the form in which they were last in force prior to the coming into operation of the Act;
“declared goods” means any goods declared by the Minister, by notice in the *Gazette*, to be declared goods for the purposes of these regulations;
“declared service” means any service declared by the Minister, by notice in the *Gazette*, to be a declared service for the purposes of these regulations;

“price” includes every valuable consideration whatsoever, whether direct or indirect;

“public utility undertaking” means—

- (a) any undertaking for the supply of electricity, gas or water;
- (b) any transport, dock, harbour or pier undertaking;
- (c) any sewerage or sewage disposal undertaking, or any undertaking for the collection or disposal of refuse; and
- (d) any undertaking of a drainage authority—the carrying on of which is authorised by or under any law and includes any such undertaking as is described in this definition and is carried on by a local governing authority;

“rate” includes every valuable consideration whatsoever, whether direct or indirect;

“service” means—

- (a) any service supplied or carried on by any person or body of persons, whether incorporated or unincorporated, engaged in a public utility undertaking or an industrial, commercial, business, profit-making or remunerative undertaking or enterprise including a professional practice, and includes any other undertaking or service which is declared by the Minister by notice in the *Gazette*;
- (b) any rights or privileges for which remuneration is payable in the form of royalty, stumpage, tribute or other levy based on volume or value of goods produced;
- (c) any rights under an agreement for the hiring of goods;
- (d) any rights under an agreement for the hire, use or occupation of any wharf or dock;
- (e) any rights under an agreement for the provision of lodging;
- (f) any rights under an agreement (not being a lease) or a license for the hiring of a hall; or

Cf. S.R. No. 150 of 1947.

- (g) any benefits under a contract of work and labour, or of work and labour and supply of materials;

(2) A person who receives (otherwise than as agent) any valuable consideration from any other person in respect of the enjoyment by that other person of a service shall, for all purposes of these regulations, be deemed to supply that service to that other person for the amount or value, or at the rate, as the case may be, of that valuable consideration.

(3) Where any agreement (including any lease) has been entered into, whether before or after the commencement of this subregulation, under which a person has become entitled to rights or privileges specified in paragraph (b), (c), (d), (e), (f) or (g) of the definition of “service” in subregulation (1) of this regulation, the person from whom the rights or privileges have been acquired shall, for all purposes of these regulations, be deemed to be supplying those rights or privileges, at all times during which the rights or privileges continue, at the rate of the remuneration charged therefor from time to time.

(4) Where the maximum rate of any such remuneration is, by virtue of any order or notice made or given after the making of any such agreement, and whether before or after the commencement of this subregulation, fixed under these regulations at a rate lower than the rate otherwise payable under any such agreement, the agreement shall, while that maximum rate is in force, be deemed to be varied by the substitution of the rate so fixed for the rate otherwise payable under the agreement in respect of the exercise or enjoyment of any such rights or privileges after the commencement of this subregulation, or after the date on which the maximum rate becomes applicable, whichever is the later.

Advisers.

Cf. Commonwealth Regulation No. 8.

4. (1) The Commissioner may, if he thinks fit, for the purposes of any investigation or inquiry, call in the aid of advisers possessing expert or business knowledge.

(2) The advisers shall be appointed by the Minister, and shall hold office during the pleasure of the Minister.

(3) An adviser appointed in pursuance of the last preceding subregulation shall receive such remuneration for his services, and travelling allowance at such rates, as the Minister determines.

The Minister, Commissioner, etc., not Compellable Witnesses.

Cf. Commonwealth Regulation No. 12.

5. Neither the Minister nor any person who is or has been exercising any power or performing any duty or function pursuant to the provisions of the Act or any regulation in operation from time to time pursuant to the provisions of the Act shall be a compellable witness in any proceedings against any person for contravening or failing to comply with—

- (a) any of those provisions; or
- (b) any provision of the Defence (National Security-General) Regulations;
or
- (c) any provision of any order, direction, notice, document, matter or thing made, given or published in pursuance of any of those provisions.

Powers of Commissioner.
Cf. Commonwealth Regulation No. 13.

6. (1) The Commissioner and any officer authorised in writing by the Commissioner to do so shall severally have power to—

- (a) summon witnesses;
- (b) take evidence on oath; and
- (c) require the production of documents, books and papers.

(2) Witnesses summoned in pursuance of subregulation (1) of this regulation may be paid such fees and allowances as are fixed by the Governor.

(3) Without prejudice to the provisions of section 11 of the Evidence Act, 1906, where a person is, by virtue of the provisions of any of these regulations or of any order or thing made or promulgated pursuant to the provisions of the Act or these regulations, required to answer questions orally, he shall not refuse to answer any question on the ground that the answer might tend to incriminate him or make him liable to any penalty, but the answers given by him shall not be admissible in evidence in any proceedings against him other than proceedings in respect of the falsity of the answers or in respect of the refusal or failure to answer any question.

Failure of Witness to Appear.

Cf. Commonwealth Regulation No. 14.

7. A person, having been summoned as a witness in pursuance of regulation 6 of these regulations, shall not fail, without lawful excuse, to appear in obedience to the summons.

Failure to be Sworn, Produce Documents, or Answer Questions.

Cf. Commonwealth Regulation No. 15.

8. A person, having appeared as a witness before the Commissioner or an officer authorised in writing by the Commissioner, whether summoned so to appear or not, shall not refuse, 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.

Affirmation in Lieu of Oath.

Cf. Commonwealth Regulation No. 16.

9. (1) Where any witness to be examined by the Commissioner or an officer authorised by the Commissioner under the last preceding regulation conscientiously refuses to take an oath, he may take an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth, to all questions asked him.

(2) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

Power to Obtain Information.

Cf. Commonwealth Regulation No. 17.

10. (1) The Commissioner or an authorised officer may require any person—

- (a) to furnish him with such information as he requires; or
- (b) to answer any question put to him,

in relation to any goods or services, whether declared or not, or to any other matter arising under these regulations.

(2) The Commissioner or officer authorised in writing by the Commissioner to do so may require the information to be given, or the question to be answered on oath and either orally or in writing, and for that purpose may administer an oath.

(3) The Commissioner or officer authorised in writing by the Commissioner to do so may, by notice in writing require the information to be given, or the question to be answered, in writing and at the place specified in the notice.

(4) A person shall not, when so required under subregulation (1) of this regulation—

- (a) refuse or fail to furnish any information or to answer any question; or
- (b) give any information or make any answer which is false in any particular.

(5) A person shall not be obliged to answer orally any question or questions unless he has first been informed by the Commissioner, or the authorised officer asking the question or questions that he is required and is obliged to answer by virtue of this regulation.

Production of Balance Sheets and Other Accounts and Statements.

Cf. Commonwealth Regulation No. 17A.

11. (1) A trader who sells or has for sale any goods or supplies or carries on any service, upon being required by notice in writing by the Commissioner to do so shall produce to the Commissioner—

- (a) all balance sheets, manufacturing, trading, profit and loss, production and revenue accounts and all production, financial and statistical and similar statements prepared by the trader or on his behalf in relation to his business of selling goods or supplying or carrying on a service; and
- (b) all documents of any kind (including documents of the kind referred to in regulation 54 of these regulations) which relate to the conduct of the business including the sale of the goods or the supply or carrying on of the service,

which are specified in the notice, and shall leave those balance sheets, accounts, statements and documents with the Commissioner or furnish him with copies thereof.

(2) Where any balance sheet, account, statement or document required to be produced to the Commissioner is in the possession or control of any person other than the trader to whose business it relates, that person shall, upon being required so to do by the Commissioner, by notice in writing, produce to and leave with the Commissioner that balance sheet, account, statement or document.

(3) A trader or other person who has been required to produce to the Commissioner any balance sheet, account, statement or document, shall, if the Commissioner so requires, permit the Commissioner to make a copy of, or to take an extract from, that balance sheet, account, statement or document.

Power to Enter Premises and Inspect Documents.

Cf. Commonwealth Regulation No. 18.

12. (1) The Commissioner, or any authorised officer may enter upon and search any premises and inspect any documents, books and papers and may inspect and take samples of any stocks of declared goods or of any other goods.

(2) The Commissioner, or any authorised officer may impound or retain any documents, books and papers produced to him or inspected by him in pursuance of this regulation and may make copies or abstracts of those documents, books and papers, or of any entries therein, but the person entitled to those documents, books and papers, shall, in lieu thereof, be entitled within a reasonable time to a copy certified as correct by the Commissioner, and such certified copy shall be received in all Courts as evidence and as of equal validity to the original.

(3) Any documents, books or papers impounded or retained at the commencement of these regulations in pursuance of the provisions of the Commonwealth Regulations or the regulations therein referred to as the repealed regulations, shall be deemed to have been impounded or retained in pursuance of the last preceding subregulation.

Preventing Commissioner or Authorised Officer from Entering Premises, etc.

Cf. Commonwealth Regulation No. 19.

13. A person shall not prevent or attempt to prevent the Commissioner, or an authorised officer, from entering upon any premises, or inspecting any documents, books and papers, or inspecting or taking samples of any stocks of any declared goods, or any other goods, or from making copies or abstracts of any documents, books and papers, or of any entries therein.

Commissioner May Require Returns to be Furnished.

Cf. Commonwealth Regulation No. 20.

14. (1) The Commissioner may, by notice, require any person to furnish him or to an authorised officer, within a specified time and in a specified form, a return setting forth to the best of the person's knowledge and ability, the following particulars or such of them as are specified in the notice, namely:—

- (a) The quantity of any goods in his possession or under his control at a specified date.
- (b) The cost to that person of those goods.
- (c) The methods and principles in accordance with which he arrives at that cost.
- (d) Where the maximum price of the goods has not been fixed in pursuance of the provisions of the Commonwealth Regulations or the regulations therein referred to as repealed regulations, or these regulations, the prices, wholesale or retail, at which, and conditions on which, he has sold, sells or proposes to sell the goods.
- (e) The price, wholesale or retail, charged by the person on the seventeenth day of September, 1948, or on such other date as the Commissioner specifies, for the goods and the conditions of any such sale; and
- (f) such further particulars as are specified in the notice.

(2) The Commissioner may, by notice, require any person or body of persons engaged in the supply or carrying on of any service to furnish to him, or to an authorised officer, a return setting forth to the best of the person's knowledge and ability such particulars relating to such service as are specified in the notice.

(3) Any notice given under this regulation may be either a notice given to such person individually or a notice to such persons or a class of such persons generally; and such last mentioned notice shall be published in the *Gazette* and in such newspapers, if any, as the Commissioner directs.

(4) The return shall be verified by statutory declaration.

(5) Any return furnished by any person under this regulation shall, in any proceedings under these regulations, be admissible in evidence against that person.

(6) A person shall not—

- (a) fail to comply with any of the requirements of any such notice; or
- (b) wilfully furnish any false or misleading return.

Proclaimed Areas.

Cf. Commonwealth Regulation No. 21.

15. (1) The Commissioner, may, from time to time, by notice in the *Gazette*, declare that any area specified by him shall, for the purposes of these regulations, be a proclaimed area or part of a proclaimed area, and thereupon the area shall, so long as the declaration remains in force, be deemed to be a proclaimed area or part thereof, as the case may be.

(2) The Commissioner may, from time to time, by notice in the *Gazette*, declare that any proclaimed area, or any part thereof, shall cease to be a proclaimed area, or part thereof, as the case may be, and thereupon such area or part shall cease to be a proclaimed area or part thereof, as the case may be.

Power to Declare Goods and Services.

Cf. Commonwealth Regulation No. 22.

16. (1) The Minister may, by notice in the *Gazette*, declare any goods to be declared goods for the purposes of these regulations.

(2) The Minister may, by notice in the *Gazette*, declare any service to be a declared service for the purpose of these regulations.

(3) Any declaration by the Minister in pursuance of this regulation may be made generally or in respect of any part of the State or any proclaimed area or in respect of any person or body or association of persons.

(4) Any such notice may, by notice in the *Gazette*, be amended, varied or revoked by the Minister.

Determination of Maximum Prices, Rates, etc.

Cf. Commonwealth Regulation No. 23.

17. (1) The Commissioner may, with respect to any declared goods, from time to time, in his absolute discretion, by order published in the *Gazette*—

(a) fix and declare the maximum price at which any such goods may be sold generally or in any part of the State or in any proclaimed area; or

(b) declare that the maximum price at which any such goods may be sold—

(i) by any person, shall be such price as is fixed by the Commissioner by notice in writing to that person; or

(ii) by any body or association of persons, or any member of any such body or association, shall be such price as is fixed by the Commissioner by notice in writing to that body or association.

Cf. Commonwealth Regulation No. 23, Subregulation (1A).

(2) In particular, but without limiting the generality of the last preceding subregulation, the Commissioner, in the exercise of his powers under that subregulation, may fix and declare—

(a) different maximum prices according to differences in quality or description or in the quantity sold, or in respect of different forms, modes, conditions, terms or localities of trade, commerce, sale or supply;

(b) different maximum prices for different parts of the State or in different proclaimed areas;

(c) maximum prices on a sliding scale;

(d) maximum prices on a condition or conditions;

(e) maximum prices for cash, delivery or otherwise, and in any such case inclusive or exclusive of the cost of packing or delivery;

(f) maximum prices on landed or other cost, together with a percentage thereon or a specified amount, or both;

(g) maximum prices according to or upon any principle or condition specified by the Commissioner; and

(h) maximum prices relative to such standards of measurement, weight, capacity, or otherwise howsoever as he thinks proper, or relative to prices charged by individual traders 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 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.

Cf. Commonwealth Regulation No. 23, Subregulation (1B).

(3) The power conferred by paragraph (a) of subregulation (1) of this regulation to fix and declare by order published in the *Gazette* the maximum price at which any declared goods may be sold shall, for all purposes, be deemed to be validly exercised by an order so published which fixes any such price by reference to a list of prices approved by the Commissioner and issued by a body or association of persons which is recognised by the Commissioner—

(a) in the case of sales by a producer or manufacturer of goods, to be representative of the producers or manufacturers, as the case may be, of the goods in relation to the sale of which the price is so fixed; and

(b) in the case of sales by a trader in goods, to be representative of the traders in the goods, in relation to the sale of which the price is so fixed.

Cf. Commonwealth Regulation No. 23, Subregulation (1C).

(4) Where the Commissioner makes an order in the form authorised by the last preceding subregulation, the Commissioner shall, on application by a seller of the goods to which the order relates, furnish him with a copy of the list of prices referred to in the order.

Cf. Commonwealth Regulation No. 23, Subregulation (2).

- (5) The Commissioner may, with respect to any declared service, from time to time, in his absolute discretion, by order published in the *Gazette*—
- (a) fix and declare the maximum rate at which any declared service may be supplied or carried on generally or in any part of the State or in any proclaimed area; or
 - (b) declare that the maximum rate at which any such service may be supplied or carried on—
 - (i) by any person shall be such rate as is fixed by the Commissioner by notice in writing to that person; or
 - (ii) by any body or association of persons, or any member of any such body or association, shall be such rate as is fixed by the Commissioner by notice in writing to that body or association.

Cf. Commonwealth Regulation No. 23, Subregulation (2A).

- (6) In particular, but without limiting the generality of the last preceding subregulation, the Commissioner, in the exercise of his powers under that subregulation, may fix and declare—
- (a) different maximum rates according to differences in the quality, description or volume of the service supplied or carried on or in respect of different forms, modes, conditions, terms or localities of trade, commerce or supply;
 - (b) different maximum rates for different parts of the State or in different proclaimed areas;
 - (c) maximum rates on a sliding scale;
 - (d) maximum rates on a condition or conditions;
 - (e) maximum rates for cash or on terms;
 - (f) maximum rates according to or upon any principle or condition specified by the Commissioner; and
 - (g) maximum rates relative to such standards as he thinks proper, or relative to the rates charged by individual 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 rates will 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.

Cf. Commonwealth Regulation No. 23, Subregulation (2B).

- (7) The power conferred by paragraph (a) of subregulation (5) of this regulation to fix and declare by order published in the *Gazette* the maximum rate at which any declared service may be supplied or carried on shall, for all purposes, be deemed to be validly exercised by an order so published which fixes any such rate by reference to a list of rates approved by the Commissioner and issued by a body or association of persons which is recognised by the Commissioner to be representative of the persons who supply or carry on the service to which the order relates.

Cf. Commonwealth Regulation No. 23, Subregulation (2C).

- (8) Where the Commissioner makes an order in the form authorised by the last preceding subregulation, the Commissioner shall, on application by any person who supplies or carries on the service to which the order relates, furnish him with a copy of the list of rates referred to in the order.

Cf. Commonwealth Regulation No. 23, Subregulation (3).

- (9) The Commissioner shall not exercise the powers conferred by paragraph (b) of subregulation (1) or paragraph (b) of subregulation (5) of this regulation to fix by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association shall sell any goods or supply or carry on any service, unless that body or association—
- (a) is recognised by the Commissioner as representative of the producers or manufacturers of or traders in, those goods or of the persons who supply or carry on that service; and
 - (b) has requested the Commissioner in writing to exercise those powers.

Cf. Commonwealth Regulation No. 23, Subregulation (3A).

- (10) Where the Commissioner fixes by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association may sell any goods or supply or carry on any service—
- (a) the secretary or other proper officer of the body or association shall—
 - (i) upon receipt of the notice, forthwith acknowledge its receipt by telegram addressed to the Commissioner and communicate to the members, by letter or telegram, its contents and the date upon which he received it;
 - (ii) make a record of the time at which and the manner in which he communicates to each member the matters specified in the last preceding paragraph; and
 - (iii) produce the record for inspection on demand by the Commissioner;

- (b) the contents of the notice, if communicated by letter, shall be presumed, unless the contrary is proved, to have been communicated to a member at the time at which the letter would be delivered to him in the ordinary course of post; and
- (c) the notice shall take effect, in respect of any member, upon communication to him of its contents, or upon the expiration of seven days from its receipt by the secretary or other proper officer of the body or association, whichever is the earlier.

Cf. Commonwealth Regulation No. 23, Subregulation (3B).

(11) An order under this regulation may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the order.

Cf. Commonwealth Regulation No. 23, Subregulation (3C).

(12) The mere production of the *Gazette* containing an order published in pursuance of this regulation (whether before or after the commencement of this subregulation) fixing and declaring—

- (a) by reference to a list of prices, the maximum price at which any declared goods may be sold; or
- (b) by reference to a list of rates, the maximum rate at which any declared service may be supplied or carried on, or of a paper purporting to be a copy of any such order and purporting to be printed by the Government Printer, shall, in all Courts, be evidence that the list was, at the date of publication of the order in the *Gazette*, approved by the Commissioner and issued by a body or association of persons recognised by the Commissioner to be—
 - (i) representative of the producers or manufacturers of the goods;
 - (ii) representative of the traders in the goods; or
 - (iii) representative of the persons who supply or carry on the service,

as the case may be.

Cf. Commonwealth Regulation No. 23, Subregulation (4).

(13) The Commissioner may at any time by order published in the *Gazette*, amend, vary or revoke any order made in pursuance of this regulation.

Cf. Commonwealth Regulation No. 23, Subregulation (5).

(14) Every order made under this regulation shall take effect upon the date specified in the order or, if no date is so specified, upon the date of the publication of the *Gazette* containing it.

Cf. Commonwealth Regulation No. 23, Subregulation (6).

(15) Every order which has been, or is, made under subregulation (1) of this regulation, not being an order in respect of specific goods, shall apply in relation to all goods which are declared, whether before or after the making of the order, to be declared goods and in respect of which the declaration is in force.

Sale of goods and supply of service in one transaction.

Cf. Commonwealth Regulation No. 23A.

18. (1) The powers of the Commissioner of or in relation to fixing and declaring the maximum price at which any declared goods may be sold and the powers of the Commissioner of or in relation to fixing and declaring the maximum rate at which any declared service may be supplied or carried on shall be deemed to extend to and in relation to the fixing and declaring of the maximum remuneration for the sale of any declared goods and the supply of any declared service for an undivided remuneration, and the provisions of these regulations, whether relating to the powers of the Commissioner or to any other matter, shall apply, *mutatis mutandis*, accordingly.

Cf. S.R. No. 88 of 1947.

(2) For the purposes of regulations 27, 29, 30, 31, 38, 49 and 54 of these regulations, a transaction in respect of which a maximum remuneration has been fixed under the last preceding subregulation shall be deemed to be the supply of a declared service at a rate equal to the undivided remuneration charged, and the maximum remuneration so fixed shall be deemed to be the maximum rate fixed under these regulations for the supply of that service.

Cf. S.R. No. 88 of 1947.

(3) For the purposes of these regulations, and of any order or notice under these regulations, whether made or given before or after the commencement of this subregulation, unless the contrary intention appears—

- (a) the sale of any goods shall be deemed to include the supply, in connection with the 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; and
- (b) the supply or carrying on 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 or carrying on such a service without any separate price or remuneration.

Cf. S.R. No. 88 of 1947.

(4) For the purposes of these regulations, and of any order or notice under these regulations, whether made or given before or after the commencement of this sub-regulation, the sale of any declared goods and the supply of any declared service for an undivided remuneration, if—

- (a) no maximum remuneration applicable to the transaction as a whole has been fixed under these regulations; and
- (b) the transaction as a whole is not one which is, by reason of the last preceding subregulation, deemed to be either a sale of goods or the supply of a service,

shall be deemed to be—

- (c) a sale of the declared goods at a price equal to so much of the undivided remuneration as bears to the whole of the undivided remuneration the same proportion as the maximum price fixed under these regulations for the sale of the goods bears to the sum of that fixed price and the maximum rate fixed under these regulations for the supply of the service; and
- (d) a supply of the service at a rate equal to the remaining part of the undivided remuneration.

Transactions may be Declared to be Sales.

Cf. Commonwealth Regulation No. 23B and S.R. No. 36 of 1947.

19. (1) The Commissioner may, by order published in the *Gazette*, declare that where a person, in this regulation referred to as "the agent," purchases goods, whether declared goods or not, as agent, or purported agent, for another person, in this regulation referred to as "the principal," and processes or treats the goods and delivers goods resulting from the processing or treatment to the principal, the carrying out of the agency, or purported agency, and the performance of the other services by the agent shall, for the purposes of these regulations, be deemed to be a sale of the goods so delivered by the agent to the principal at a price equal to the sum of the amounts paid or payable by the principal to the agent in respect of the agency and services, including the price paid by the agent for the goods purchased by him, and the order shall, for the purposes of these regulations, have effect according to its tenor.

(2) The Commissioner may, either generally by order published in the *Gazette*, or specifically by notice in writing, exempt any person or class of persons from the operation of any order made in pursuance of this regulation.

Power to Prohibit Certain Transactions.

Cf. Commonwealth Regulation No. 23C and S.R. No. 44 of 1948.

20. (1) Where the Commissioner is of opinion that it is necessary so to do in order to prevent a person, in this regulation referred to as "the vendor," who carries on the business of selling declared goods or supplying declared services from continuing to operate a scheme which, in the opinion of the Commissioner—

- (a) involves a departure from his normal course of trading;
- (b) would not be operated but for the provisions of these regulations or of an order thereunder; and
- (c) has the effect that the real cost, taking into account losses involved in transactions connected with the scheme, to any purchaser or purchasers of goods from the vendor, of any declared goods so purchased, or to any person or persons to whom services are supplied by the vendor, of any declared services so supplied, is more than the maximum price or rate fixed under these regulations for the sale of those goods, or the supply of those services.

he 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 which is being used for the purposes of the scheme, to be a class of transactions to which this regulation shall apply.

(2) Except with the consent of the Commissioner, a person to whom a notice under this regulation, duly published or served, is directed shall not, while the notice remains unrevoked, enter into a transaction included in a class of transactions specified in the notice.

(3) A notice under this regulation shall specify the class of declared goods or declared services in relation to which, in the opinion of the Commissioner, the scheme is being operated, but shall have full force and effect notwithstanding that it does not specify or describe the scheme which, in the opinion of the Commissioner, makes the notice necessary.

(4) Any reference in this regulation to a person shall be deemed to include a reference to persons included in a class of persons, and this regulation shall apply, *mutatis mutandis*, accordingly.

Power of Minister to Suspend Order, etc.

Cf. Commonwealth Regulation No. 24.

21. (1) Notwithstanding anything contained in these regulations and without prejudice to the Minister's general powers of control and direction of the administration of the Act and these regulations pursuant to the provisions of the Act, the Minister may request the Commissioner to consider further any matter dealt with by any order made under the last preceding regulation, or any part of any such order, and the Commissioner shall, within twenty-eight days from the date of any request so made, report thereon to the Minister.

(2) Notwithstanding anything contained in these regulations, and without prejudice, the Minister's general powers of control and direction of the administration of the Act and these regulations pursuant to the provisions of the Act, the Minister may, by notice in the *Gazette*, suspend the operation of any order made under the last preceding regulation, or any part of any such order, for a period not exceeding twenty-eight days from the date of his request.

(3) Upon the publication of the notice, the maximum price or rate, if any, which prevailed prior to the making of the order which has been suspended shall apply during the period of the suspension.

(4) The Commissioner shall—

- (a) within the period specified in the notice of suspension, report thereon to the Minister; and
- (b) within such period, by order published in the *Gazette*, confirm, amend, vary or revoke the order or part so suspended in conformity with his report to the Minister,

and, on receipt of the report of the Commissioner, the Minister shall, by notice in the *Gazette*, remove the suspension.

Power to Prohibit Sale of Goods or Supply of Services before
Maximum Price or Rate Fixed.

Cf. Commonwealth Regulation No. 24A, S.R. No. 122 of 1948.

22. (1) The Commissioner may, by order, provide that a person shall not sell any declared goods, or supply or carry on any declared service, unless and until that person has made a written request to the Commissioner to fix the maximum price at which the goods may be sold or the maximum rate at which the service may be supplied or carried on, and the Commissioner has fixed the maximum price or the maximum rate accordingly.

(2) Every order made, or purporting to have been made, under this regulation before the date of commencement of the regulations by which this subregulation was added, and in force, or purporting to be in force, on that date, shall, from and including that date, have the same force and effect as if it had been made under this regulation as amended by those regulations.

Sales for Export.

Cf. Commonwealth Regulation No. 25.

23. Notwithstanding anything contained in these regulations, the Commissioner may, on application by an exporter of declared goods, and subject to such conditions as the Commissioner determines, approve of the sale of such goods for export at a price exceeding the maximum price fixed for those goods in pursuance of subregulation (1) of regulation 17 of these regulations.

Inter-wholesale Transactions.

Cf. Commonwealth Regulation No. 26.

24. (1) A wholesaler, in this regulation referred to as "the buyer," who purchases any declared goods from any other wholesaler, in this regulation referred to as "the seller," shall not sell or offer for sale those goods at a price in excess of the cost to the buyer:

Provided that the buyer may sell or offer for sale such goods at a price not greater than the maximum price at which the seller was entitled to sell them in similar quantities at the time of sale and the onus of ascertaining such maximum price shall be upon the buyer.

(2) A wholesaler who purchases any declared goods from a retailer shall not sell or offer for sale those goods at a price in excess of the cost to the retailer, and the onus of ascertaining such cost shall be upon the wholesaler.

(3) Notwithstanding anything contained in subregulation (1) of this regulation, the buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the buyer, the Commissioner declares to him in writing.

(4) For the purpose of this regulation, the buyer may request the seller of goods to supply him with such information as he deems necessary to enable him to comply with the provisions of this regulation and the seller shall thereupon furnish in writing such information to the buyer.

(5) The Commissioner may, generally by order published in the *Gazette*, or specifically by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this regulation.

(6) In this regulation, "wholesaler," in respect of any goods, means any person who purchases those goods and sells or supplies them—

- (a) for re-sale or for manufacture for sale; or
- (b) to the State, where the value of the goods is in any one month twenty-five pounds or over.

(7) For the purposes of this regulation and in any legal proceedings which are pending at the date of commencement of this subregulation, or which are commenced after that date, whether the proceedings are in respect of anything done before or on or after that date, the term "cost" in this regulation—

- (a) in relation to any goods, not being goods, to or in respect of which an order under the next succeeding subregulation applies, shall be construed as meaning the actual price paid or payable by the wholesaler who purchased the goods, in this definition referred to as "the purchaser," to the wholesaler or retailer from whom he purchased them, plus any expenses which—
 - (i) were actually and specifically incurred by the purchaser in placing the goods at the point of delivery by him for the purposes of a sale by him; and

- (ii) at the time of the sale or offer for sale by the purchaser, were recorded—
- (I) on a copy of an invoice for the goods which is held by the purchaser; or
 - (II) in the books and accounts of the purchaser in such a manner that they can be readily identified and clearly associated with the goods; or
- (b) in relation to any goods to or in respect of which an order under the next succeeding subregulation applies—shall be construed as having the meaning defined in that order.
- (8) For the purposes of this regulation the Commissioner may, by order published in the *Gazette*, define the meaning of the term "cost," in relation to—
- (a) any class of sale specified in the order;
 - (b) any class of goods so specified; or
 - (c) any class of trader so specified.

Inter-retail Transactions.

Cf. Commonwealth Regulation No. 26A.

25. (1) A retailer, in this regulation referred to as the "retail buyer," who purchases any declared goods from any other retailer, in this regulation referred to as the "retail seller", shall not sell those goods at a price in excess of the cost to the retail buyer:

Provided that the retail buyer may sell or offer for sale such goods at a price not greater than the maximum price at which the retail seller was entitled to sell for any similar quantities at the time of sale, and the onus of ascertaining such maximum price shall be upon the retail buyer.

(2) Notwithstanding anything contained in the last preceding subregulation, the retail buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the retail buyer, the Commissioner declares to him in writing.

(3) For the purpose of this regulation, the retail buyer may request the retail seller of goods to supply him with such information as he deems necessary to enable him to comply with the provisions of this regulation, and the retail seller shall thereupon furnish in writing such information to the retail buyer.

(4) The Commissioner may generally, by order published in the *Gazette* or specifically by notice in writing, exempt any trader or class of trader from the whole or part of the requirements of this regulation.

(5) For the purposes of this regulation "cost"—

(a) in relation to any goods, not being goods to or in respect of which an order under the next succeeding subregulation applies,—means the actual price paid or payable by the retail buyer to the retail seller, plus any expenses which—

(i) were actually and specifically incurred by the retail buyer in placing the goods at the point of delivery by him for a sale by him; and

(ii) at the time of the sale or offer for sale by the retail buyer were recorded—

(I) on a copy of an invoice for the goods held by the retail buyer; or

(II) in the books and accounts of the retail buyer in such a manner that they can be readily identified and clearly associated with the goods; or

(b) in relation to any goods to or in respect of which an order under the next succeeding subregulation applies—has the meaning defined in that order.

(6) For the purposes of this regulation, the Commissioner may, by order published in the *Gazette*, define the meaning of the term "cost" in relation to—

(a) any class of sale specified in the order;

(b) any class of goods so specified; or

(c) any class of trader so specified.

Statements that Prices have been Approved by the Commissioner
Prohibited without his Approval.

Cf. Commonwealth Regulation No. 27.

26. (1) Subject to the next succeeding subregulation, a person shall not—

(a) publish, print, circulate, announce, whether by way of broadcast by wireless transmission or otherwise, or make public in any other manner whatsoever, or cause to be published, printed, circulated, so announced or made public in any other manner whatsoever any notification relating to any goods or service; or

(b) sell or offer for sale any goods having affixed thereto or associated therewith, any label, brand or other mark,

containing the words stating or implying that any price or rate specified in any such notification with respect to any such goods or service has been approved by the Commissioner.

(2) Any person may, with the approval of the Commissioner, include in any such notification a statement in such a form as is approved by the Commissioner including an approval number allotted by the Commissioner to the particular approval, stating that any price or rate specified therein has been approved by the Commissioner.

Sale of Goods subject to Condition to Refund Excess Price Prohibited.

Cf. Commonwealth Regulation No. 28.

27. A person shall not, unless the consent in writing of the Commissioner has first been obtained—

- (a) sell or offer for sale any declared goods or supply or offer to supply any declared service at a price or rate greater than the maximum price or rate fixed for those goods or that service under these regulations, subject to a condition to the effect that, if the price or rate at which the goods are sold or the service supplied is not approved at a later date by the Commissioner, a refund or adjustment will be made; or
- (b) sell or offer for sale any declared goods, or supply or offer to supply any declared service, subject to a condition requiring the buying of any other goods or the supply of any other services, whether declared or not declared.

Offence to Sell at Price Higher than Maximum Price.

Cf. Commonwealth Regulation No. 29.

28. (1) A person shall not—

- (a) sell or offer for sale any declared goods at a greater price than the maximum price fixed in relation thereto under these regulations for the sale of those goods; or
- (b) without the prior approval of the Commissioner, sell or offer for sale any declared goods upon terms or conditions different from the terms or conditions upon which substantially identical goods were sold by him on the prescribed date as defined in subregulation (6) of this regulation if such sale or offer for sale upon such terms and conditions would result directly or indirectly
 - (i) in a greater price than the maximum price fixed in relation thereto being obtained; or
 - (ii) in any other manner to the advantage of the seller.

Cf. Commonwealth Regulation No. 29, Subregulation (1A).

(2) In addition to any other penalty that may be imposed for a breach of subregulation (1) of this regulation, the Court may order the defendant to refund to the purchaser the difference between the maximum price so fixed and the price at which the goods were sold and the like proceedings may be taken upon the order as if the order had been a judgment of the Court in favour of the purchaser.

Cf. Commonwealth Regulation No. 29, Subregulation (2).

(3) A certificate by the Commissioner specifying the difference between the maximum price fixed, in relation to the goods, the sale of which is the subject of any proceedings under subregulation (1) of this regulation, and the price at which the goods were sold shall, for the purposes of the last preceding subregulation, be prima facie evidence of the matters stated therein.

Cf. Commonwealth Regulation No. 29, Subregulation (3).

(4) For the purposes of this regulation, any person on whose behalf or at whose place of business any declared goods are sold or offered for sale at a greater price than the maximum price fixed, in relation thereto, under these regulations for the sale of those goods, whether the goods are sold or offered for sale contrary to the instructions of the person or not, shall be deemed to have contravened the provisions of this regulation, unless the Court is satisfied that the sale or offering for sale took place without his knowledge and that he has systematically used all due diligence to secure observance of these regulations.

Cf. Commonwealth Regulation No. 29, Subregulation (6).

(5) For the purpose of this regulation, a person shall be deemed to offer goods for sale if he notifies the price proposed by him for a sale of the goods by the publication of a price list, by exposing the goods for sale in association with a mark indicating price, by furnishing a quotation or otherwise howsoever.

Cf. Commonwealth Regulation No. 29, Subregulation (7).

(6) In this regulation, "prescribed date," in relation to the sale or offer for sale of any declared goods, means such date as is declared to be the "prescribed date" in any order made with respect to those goods under regulation 17 of these regulations.

Charging Excessive Rate for Services an Offence.

Cf. Commonwealth Regulation No. 30.

29. (1) A person shall not—

- (a) supply or offer to supply any declared service at a higher rate than the maximum rate fixed in relation thereto under these regulations; or
- (b) without the approval of the Commissioner, supply or offer to supply any declared service upon terms and conditions different from the terms and conditions upon which a substantially identical service was supplied by him on the prescribed date as defined in subregulation (5) of this regulation if such supply or offer to supply upon such terms and conditions would result directly or indirectly—
 - (i) in a greater rate than the maximum rate fixed in relation thereto being obtained; or
 - (ii) in any other manner to the advantage of the supplier.

(2) In addition to every penalty that may be imposed for a breach of subregulation (1) of this regulation, the Court may order the defendant to refund to the person to whom the services were supplied, the difference between the maximum rate so fixed and the rate at which the services were supplied and the like proceedings may be taken upon the order as if the order had been a judgment of the Court in favour of the person to whom the services were so supplied.

(3) A certificate by the Commissioner specifying the difference between the maximum rate so fixed in relation to the services the supply of which is the subject of any proceedings under subregulation (1) of this regulation and the rate at which the services were supplied, shall for the purposes of the last preceding subregulation, be *prima facie* evidence of the matters stated therein.

(4) For the purposes of this regulation any person on whose behalf or at whose place of business any declared services are supplied or offered to be supplied at a greater rate than the maximum rate fixed in relation thereto under these regulations for the supply of those services whether the services are supplied or offered to be supplied contrary to the instructions of the person or not, shall be deemed to have contravened the provisions of this regulation unless the Court is satisfied that the supply or offer of supply took place without his knowledge and that he has systematically used all due diligence to secure the observance of these regulations.

(5) In this regulation, "prescribed date," in relation to the supply or offer to supply any declared service, means such date as is declared to be the "prescribed date" in any order made with respect to that service under regulation 17 of these regulations.

Sale of Declared Goods with Undeclared Goods, etc.

Cf. Commonwealth Regulation No. 31.

30. (1) It shall be a defence to a proceeding for an offence against regulation 28 or regulation 29 of these regulations if the party alleged to have contravened either of these regulations proves—

- (a) that the declared goods or declared service, or both, were supplied with undeclared goods or an undeclared service, or both, at a total price; and
- (b) that the price for that portion of the total sale represented by the undeclared goods or undeclared service, as the case may be, was reasonable, having regard to the cost or current market value of the undeclared goods or undeclared service; and
- (c) that after subtracting from the amount of total price referred to in paragraph (a) of this subregulation, the amount of the price referred to in the last preceding paragraph, the amount of the balance remaining, does not exceed the amount of the maximum fixed in relation to the price of the declared goods, or the rate of the declared service, or both, as the case may be.

(2) In this regulation—

- "undeclared goods" means goods other than declared goods; and
- "undeclared service" means a service other than a declared service.

Offering to Pay Higher Price for Declared Goods, etc.

Cf. Commonwealth Regulation No. 32.

31. (1) A person shall not knowingly—

- (a) pay for or offer to pay for;
- (b) hold himself out as being willing to pay for, or to offer to pay for, or as being willing or able to obtain another person to pay for; or
- (c) offer to act in connection with the payment for,

any declared goods or declared service at a greater price or rate, whether by way of premium or otherwise howsoever, than the maximum price or rate fixed in relation thereto by or under these regulations for the sale of those goods or the supply of that service.

(2) Where the maximum price or rate relevant to any prosecution for a contravention of this regulation is a price or rate fixed by notice in writing to any person or body or association of persons, it shall be a defence to the prosecution for the person charged to prove that he was not aware of the fact that the price or rate had been so fixed.

Delivery of Goods Less in Quantity or Inferior in Quality to those Sold.

Cf. Commonwealth Regulation No. 32AA.

32. In relation to the sale of any declared goods, the maximum price of which has been fixed by or under these regulations, a person shall not, without the consent of the Commissioner, deliver or offer to deliver, or knowingly accept, or offer to accept, delivery of—

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

Provided that, where the agreement for the sale of the goods provides for delivery of the goods by instalments over a period, the goods may be so delivered if the whole of the goods are delivered within the time specified in the agreement.

Averment of Prosecution.

Cf. Commonwealth Regulation No. 32A.

33. (1) In any prosecution for a contravention or failure to comply with any provision of these regulations or with any order made in pursuance of any such provision, the averment of the prosecutor made in writing and served on the defendant as prescribed shall be *prima facie* evidence of the matter or matters averred.

(2) The last preceding subregulation shall apply to any matter so averred although—

(a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or

(b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of that evidence shall neither be increased nor diminished by reason of this regulation.

(4) This regulation shall not apply to an averment of the intent of the defendant.

(5) No averment shall be made under this regulation unless the Solicitor General, Crown Solicitor, or the Assistant Crown Solicitor is satisfied that the averment is reasonably necessary for the due administration of justice and will not impose hardship upon or occasion injustice to the defendant, and certifies in writing accordingly on the paper containing the averment.

(6) An averment shall not be evidence for the purposes of this regulation unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring his attendance before the Court.

(7) Service of a copy of the paper containing the averment may be proved in the same manner as service of the process requiring the defendant's attendance before the Court may be proved.

(8) Upon the hearing of any information or complaint in respect of a contravention or failure to comply with any provision of these regulations or with any order made in pursuance of any of them, the Court may, if no amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appears to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(9) If in any such case the Court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, adjourn the hearing of the case for such period as it thinks fit, and may make such order as to the costs of the adjournment as it thinks proper.

Production of Genuine Invoices and Documents as Evidence.

Cf. Commonwealth Regulation No. 32B.

34. (1) Where in a defence to a prosecution under these regulations it is pleaded that the price at which any goods were sold was justified by the cost at which the goods or the raw materials used in the manufacture of the goods were purchased, evidence as to the cost of the goods or raw materials, as the case may be, shall be supported by genuine invoices showing full particulars of the cost, including the date of purchase, and the name and place of business of the supplier, and the onus of proof of the genuineness of the invoices shall be on the defendant.

(2) Where in the defence to a prosecution under these regulations, it is pleaded that the rate at which any service so supplied was justified by the cost to the person supplying the service, evidence as to that cost shall be supported by genuine document showing full particulars of the cost, including the date when the cost was incurred and the name and place of business or residence of any persons whose services contributed to that cost, and the onus of proof of the genuineness of the document shall be on the defendant.

Prosecutions where Price Fixed is Lower or Lowest of more than one Price.

Cf. Commonwealth Regulation No. 32C.

35. Where a maximum price or rate fixed under these regulations, whether before or after the commencement of this regulation, is expressed to be the lower or lowest of two or more prices or rates, then, for the purposes of any prosecution for a contravention of these regulations, the prosecutor may, in the information, complaint, or indictment, recite as that maximum price or rate any one of those prices or rates, and, for the purposes of that prosecution, including the proof of the maximum price or rate so recited, and for any purpose arising out of that prosecution, the order or notice by which the maximum price or rate was so fixed shall be deemed to have fixed as the relevant maximum price or rate, the price or rate so recited.

Meaning of "Wholesale" and "Retail."

Cf. Commonwealth Regulation No. 33.

36. In these regulations and in any order made thereunder fixing the maximum price for the sale of any declared goods, the following expressions shall, unless the contrary intention appears in the regulations or the order, have the meanings respectively assigned to them hereunder—

"landed cost" means the actual cost of landing the declared goods in the store in the State of the person to or for whom, or on whose behalf, the declared goods were originally supplied or ordered, or at such other point of delivery as is approved by the Commissioner;

"retail" used in relation to any such sale, shall be deemed to refer to a sale to a person for the purposes of consumption or use;

"wholesale" used in relation to any such sale, shall be deemed to refer to the sale or supply to a person for the purpose of resale, including but without affecting the generality hereof, the sale or supply by an importer, manufacturer or producer to a manufacturer or a wholesale or retail trader; and

the maximum price fixed shall be deemed to include any charge for wrapping the goods.

Refusal, etc., to Sell at Fixed Prices.

Cf. Commonwealth Regulation No. 34.

37. (1) A person who has in his custody or under his control any declared goods for sale in respect of which a maximum price has been fixed under these regulations, shall not refuse or fail on—

- (a) demand of any quantity of the declared goods; and
- (b) tender of payment at the price so fixed for the quantity demanded, to supply the declared goods in the quantity demanded.

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

- (a) the defendant supplied a reasonable quantity of the declared goods; or, after making reasonable provision for private consumption or use, had not a sufficient quantity of the declared goods 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 declared goods for use or consumption within the State and the ordinary requirements of his business;
- (b) the defendant was a wholesale trader in the declared goods and the person who demanded to be supplied was not a manufacturer or a retail trader therein, or in any declared goods made or partly made therefrom; or
- (c) the defendant was acting in accordance with a practice for the time being approved by the Commissioner.

(3) For the purpose of determining what is a reasonable quantity of any declared goods within the meaning of this regulation, 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 declared goods demanded, either alone or with other goods.

Refusal to Perform Service at Declared Rate.

Cf. Commonwealth Regulation No. 35.

38. (1) A person who supplies or carries on any declared service in respect of which a maximum rate has been fixed under these regulations shall not refuse or fail on—

- (a) demand for the performance of the declared service; and
- (b) tender of payment at the rate fixed for such service, to supply the declared service.

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

- (a) the defendant supplied a reasonable portion of the declared service demanded; or, after making reasonable provision for his private use, sufficient service was not under his control to supply the service demanded, in addition to the service required to satisfy all other contracts, then subsisting under which he was obliged to supply that service within the State, and the ordinary requirements of his business; or
- (b) the defendant was acting in accordance with a practice for the time being approved by the Commissioner.

(3) For the purpose of determining what is a reasonable portion of any declared service within the meaning of this regulation, regard shall be had to all the circumstances of the case, including the question whether the portion of the service demanded represented the normal requirements of the person who demanded its supply to him.

Alteration of Size of Containers or Quantity or Ingredients of Declared Goods.

Cf. Commonwealth Regulation No. 36.

39. (1) A person shall not, without the written consent of the Commissioner—

- (a) pack or put up any declared goods in a container of a size smaller than the container ordinarily used by him at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations;
- (b) pack or put up in a container a quantity of declared goods smaller than the quantity ordinarily packed or put up by him in a container of that size at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations;
- (c) alter the formula or recipe ordinarily used by him at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations in the manufacture or production of any declared goods; or
- (d) as regards any particular declared goods, manufacture the declared goods inferior in quality to the quality manufactured by him or a predecessor in business on or immediately prior to the date of fixation, by order made under these regulations or the regulations referred to in the Commonwealth regulations as repealed regulations or the Defence (National Security—General) Regulations, of the maximum price of those declared goods; or
- (e) sell or offer for sale as declared goods any goods which are adulterated or which are falsely described, packed, or enclosed for sale or labelled as declared goods.

(2) For the purpose of this regulation, proof that at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations any person, dealing in the ordinary course of trade in any declared goods in respect of which any proceedings have been instituted, sold, or had for sale—

- (a) any declared goods purporting to have been packed or put up by the defendant in a container of a certain size, shall be evidence that that was the size of the container ordinarily used by the defendant at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations in the packing or putting up of the declared goods;
- (b) any declared goods purporting to have been packed or put up by the defendant in a container containing a certain quantity of the declared goods, shall be evidence that that was the quantity ordinarily packed or put up by the defendant at the commencement of the regulations referred to in the Commonwealth Regulations as repealed regulations in a container of that size;
- (c) any declared goods, purporting to have been manufactured or produced by the defendant, which appear by analysis or otherwise to have been manufactured or produced in accordance with a certain formula or recipe, shall be evidence that that formula or recipe was that ordinarily used by the defendant at the commencement of the regulations referred to in the Commonwealth regulations as repealed regulations in the manufacture or production of the declared goods.

(3) It shall be a defence to a prosecution for an offence against the provisions of paragraph (c) of subregulation (1) of this regulation if the defendant proves that—

- (a) the alteration in the formula or recipe was not made in anticipation or consequence of any action under these regulations in respect of the declared goods the formula or recipe of which was altered; and
- (b) the declared goods manufactured or produced in accordance with the formula or recipe as altered were not inferior to those manufactured or produced prior to the alteration.

Speculating in Goods.

Cf. Commonwealth Regulation No. 37.

40. (1) A person, not being a *bona fide* wholesale or retail trader or a *bona fide* consumer or user, shall not purchase or agree to purchase or otherwise acquire, except by way of *bona fide* security only, any goods or any right or interest therein, and any goods so purchased or agreed to be purchased or acquired except as aforesaid shall be liable to forfeiture as provided in these regulations.

(2) In any prosecution for an offence against the last preceding subregulation, it shall be a sufficient defence to show that the purchase or agreement had not the object or the effect of increasing, directly or indirectly, the price of the goods to the consumer or user.

(3) This regulation shall not apply in relation to the purchase or acquisition of goods at a sale of those goods by auction upon the winding up of a business.

Corners and Restrictions on Circulation of Goods.

Cf. Commonwealth Regulation No. 38.

41. (1) A person shall not, with intent to corner the market or restrain trade therein, hold or buy up any goods and store or retain them in his possession or under his control, whether the maximum price thereof has or has not been fixed and declared under these regulations.

(2) In addition to any penalty that may be imposed under subregulation (1) of this regulation, the Court may order that the whole of such goods, or such quantity thereof as the Court so orders, shall be forfeited to the Crown.

(3) When any goods have been forfeited under this regulation, the provisions of regulation 43 of these regulations shall apply.

Forfeiture of Goods by Minister.

Cf. Commonwealth Regulation No. 39.

42. (1) If the Minister upon report by the Commissioner, is satisfied that any person—

- (a) is buying up or storing or retaining in his possession or under his control any goods, whether a maximum price thereof has or has not been fixed under these regulations, with intent to corner the market or to restrain trade therein; or
- (b) has in his possession or under his control any such goods and has failed, on demand and tender of the maximum price, to supply in accordance with the provisions of regulation 37 of these regulations, any particular person or persons with those goods; or
- (c) has purchased or acquired or agreed to purchase or acquire any such goods in contravention of regulation 40 of these regulations,

the Minister may make an order that the goods or any specified quantity thereof be forfeited; and upon publication of the order in the *Gazette*, the whole of the goods, or such specified quantity thereof, shall be forfeited to the Crown.

(2) When any goods have been forfeited under this regulation, the provisions of regulation 43 of these regulations shall apply.

Seizure and Disposal of Forfeited Goods.

Cf. Commonwealth Regulation No. 40.

43. When any goods have been so forfeited, any authorised officer or any member of the Police Force may—

- (a) seize any goods which he has reasonable cause to believe are forfeited under these regulations;
- (b) store any such goods in any place approved by the Commissioner for the purpose; and
- (c) sell or otherwise dispose of the goods to such persons or bodies and at such times and in such manner and upon such terms and conditions, as the Minister directs.

Sale by Auction.

Cf. Commonwealth Regulation No. 41.

44. (1) The Commissioner may, by order published in the *Gazette* or by notice in writing to any person selling or offering for sale by auction any declared goods, prohibit such sale or permit such sale on such terms and conditions as he thinks fit.

(2) A person shall not sell, or offer to sell, by auction, any declared goods in contravention of any order or notice under this regulation.

Payment to Former Owner of Whole or Portion of Proceeds of Sale.

Cf. Commonwealth Regulation No. 42.

45. When any forfeited goods have been sold under paragraph (c) of regulation 43 of these regulations, the Minister may, under special circumstances, direct that the whole or any portion of the proceeds of the sale of the goods, less any expenses incurred in connection with their seizure, storage and sale, be returned to the person who was the owner of the goods prior to their forfeiture.

Delivery of Invoice or Docket with Declared Goods.

Cf. Commonwealth Regulation No. 42A.

46. The Commissioner may, by order, provide that any person who sells any goods shall deliver with the goods, or within such time after the delivery of the goods as is specified in the order, an invoice or docket containing such particulars as are so specified.

Power to Search for Goods.

Cf. Commonwealth Regulation No. 43.

47. Any authorised officer or any member of the Police Force may at any time in the day or night enter into and search any premises or vessel or part thereof, where any goods forfeited or liable to seizure under these regulations are, or are supposed to be, and, if necessary for the purpose, may break into and use force to enter such premises or vessel or part, and may break open and search any chests, trunks, packages, or other things in which any such goods are or are supposed to be.

Power to Requisition Goods.

Cf. Commonwealth Regulation No. 44.

48. (1) Where the Minister, after receipt of a report from the Commissioner, is satisfied that it is necessary or expedient so to do in order to ensure the fair distribution of goods amongst all members of the community, he may, by notice published in the *Gazette* or given to any person or persons, direct all or any persons who, whether as owners or otherwise, have in their possession or under their control any specified goods to retain and hold the goods, or a specified quantity thereof, for and on behalf of His Majesty.

(2) Upon the publication or giving of the notice, the title to and property in the goods, or the quantity thereof, shall be divested from the owners thereof and become vested in His Majesty freed from any charge thereon and from any claim, contractual or otherwise, and the holders or owners of the goods shall thereupon be discharged from any other contractual engagements whatsoever in respect thereof; and the title and property of the owners shall be converted into a right to receive payment of the value of the goods or the quantity thereof, as hereinafter provided.

(3) All such persons, and their agents and servants, shall, without delay, obstruction, or objection, give immediate and peaceable possession of the goods or the quantity thereof to the Minister or to any authorised officer.

(4) The production of any document or telegram purporting to be a demand or an authority to demand such goods, or quantity thereof, and to be signed or sent by the Minister or the Commissioner, shall be sufficient authority for the delivery of the goods, or quantity thereof, to which the document or telegram relates.

(5) The owner of the goods, or quantity thereof, shall be entitled to be paid therefor by the Minister—

- (a) at such price as is mutually agreed upon; or
- (b) in default of such agreement, at such price as is determined by the Commissioner after hearing the parties concerned.

(6) In the event of any doubt or dispute arising as to the person legally entitled to receive any moneys payable under this regulation, or as to any charge thereon or claim in respect thereof, the Minister may, in default of agreement between the parties concerned, pay the same into the Supreme Court, to abide such order as may be made by the Supreme Court.

(7) A person shall not, after the publication or giving of any notice—

- (a) attempt to dispose of or in any way deal with the goods, or the quantity thereof, to the prejudice of His Majesty's rights and powers under this regulation; or

(b) refuse to deliver, or delay, or obstruct the delivery as prescribed of the goods, or the quantity thereof.

(8) Where any goods have been acquired under the provisions of this regulation, the Minister may store, sell, or otherwise dispose of the goods to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as he thinks fit.

Particulars with respect to Declared Goods and Declared Services
to be Exhibited.

Cf. Commonwealth Regulation No. 45.

49. (1) The Commissioner may, by order, require any trader or class of trader, who sells or has for sale any declared goods or who supplies or carries on any declared service, the maximum price of, or the maximum rate for, which is fixed by or under these regulations, to exhibit, in such position and in such manner as are specified in the order, such particulars relating to any such declared goods or services as are so specified.

(2) The Commissioner, or an authorised officer, if, in his opinion, the particulars are not legible to persons contemplating making any purchase or conducting any business at the trader's place of business, may direct that they be exhibited in such position or in such manner as he thinks fit, and the owner or person in charge of the trader's place of business shall forthwith cause the particulars to be exhibited in accordance with the direction.

(3) The Commissioner, or an authorised officer, may, at any time, by notice in writing, require the owner or person in charge of any trader's place of business to furnish him with details of the particulars which the trader is purporting to exhibit in pursuance of any order made under this regulation.

(4) A person shall not refuse or fail to comply with any requirement or direction made or given under this regulation or by any order made in pursuance of this regulation.

Advertisements as to Declared Goods.

Cf. Commonwealth Regulation No. 45AA.

50. (1) The Commissioner may, by order published in the *Gazette*, make provision for the inclusion in advertisements, or in any class of advertisements, published by any person, or by any specified person, or by persons included in any class of persons, in relation to any declared goods or services, or any class of declared goods or services of such particulars, including particulars as to the maximum price or rate fixed by or under these regulations, as are specified in the order.

(2) A person shall not publish, or cause to be published, any advertisement in relation to declared goods or services which does not include the particulars required to be specified in pursuance of any order under this regulation which is applicable to that advertisement.

(3) An advertisement shall be deemed to be published within the meaning of this regulation if it is—

- (a) inserted in any newspaper, periodical, or any other publication published in the State; or
- (b) exhibited to public view in, or on, any building, vehicle, or place (whether or not a public place and whether on land or water); or
- (c) contained in any document sent or delivered gratuitously to any person or thrown or left upon premises in the occupation of any person; or
- (d) broadcast by wireless transmission.

Tickets, etc., to be Attached to Declared Goods.

Cf. Commonwealth Regulation No. 45AB.

51. The Commissioner may by order require any person who sells or has for sale any declared goods the maximum price of which is fixed by or under these regulations, to attach to, or display with, such of those goods as the Commissioner specifies, a ticket or label in such form as the Commissioner determines, setting forth such particulars relating to those goods as the Commissioner specifies, or otherwise to mark them with those particulars in such manner as the Commissioner determines.

Manner in which Notice in Writing may be Given.

Cf. Commonwealth Regulation No. 45A.

52. A notice in writing for the purposes of these regulations may be given—

- (a) to any person, by delivering it by hand or by sending it by post in a letter addressed to that person as his last known or usual place of abode or place of business;
- (b) to any body or association of persons, by delivering it by hand to the secretary or other proper officer of the body or association, or by sending it by post in a letter addressed to him at the last known or usual place of business of the body or association; or
- (c) to persons generally or to persons included in a class of persons or to persons in any area by publication of the notice in the *Gazette*.

Application of Orders, etc.

Cf. Commonwealth Regulation No. 45B.

53. Any order, declaration or notice authorised to be made or given under these regulations 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;
- (ba) in the case of an order, any person to whom a notice is given in pursuance of the order;
- (c) all or any persons in any area;
- (d) any particular person;
- (da) the sale of goods or supply of a service or services to a particular person by a particular person;
- (e) goods or services generally;
- (f) any class of goods or any class of services;
- (g) all or any goods or services in any area; or
- (h) specific goods or a specific service.

Books, Accounts, etc., to be Kept and Preserved.

Cf. Commonwealth Regulation No. 49.

54. (1) Every person who in the course of, or for the purpose of, or in connection with, or as incidental to, any business carried on by him—

- (a) produces, manufactures, sells or supplies any goods, whatsoever; or
- (b) supplies or carries on any service whatsoever,

shall, for the purposes of these regulations, keep proper books and accounts, and stock and costing records where applicable, and shall preserve those books and accounts and stock and costing records, including all copies of invoices and all vouchers, agreements, correspondence, cables, telegrams, stock sheets and other documents relating to his purchases of stock, costs and sales of any goods or relating to any service supplied or carried on by him, until their destruction is authorised by the Commissioner.

(2) Without affecting the generality of the last preceding subregulation, the Commissioner may, by notice in writing, direct any person to whom that subregulation applies to keep such books, accounts and records as are specified in the notice.

(3) Every person to whom any such direction is given shall comply with the direction and shall preserve the books, accounts and records required to be kept by him in accordance with the direction until their destruction is authorised by the Commissioner.

Power of Commissioner to Require Securities.

Cf. Commonwealth Regulation No. 51.

55. (1) The Commissioner shall have the right to require and take securities for compliance with these regulations or with any order made thereunder, or with any condition specified by the Commissioner under any such order.

(2) Any such security shall be in accordance with the form in the Schedule to these regulations and shall be by bond or guarantee or cash deposit, or all or any of such methods so that in each case the security shall be approved by the Commissioner.

(3) When security is required for any particular purpose, the security may, by the authority of the Commissioner, be accepted to cover all transactions for such time and for such amount as the Commissioner determines.

(4) If the Commissioner is not at any time satisfied with the sufficiency of any security, the Commissioner may require a fresh security and a fresh security shall be given accordingly.

(5) A security in accordance with the form shall without sealing bind its subscribers as if sealed, and jointly and severally, and for the full amount.

(6) Whenever a security is put in suit by the Commissioner, the production thereof without further proof shall entitle him to judgment for their stated liability against the persons appearing to have executed the security unless the defendants prove compliance with the conditions thereof or that the security was not executed by them or release or satisfaction.

(7) If it appears to the Court that a non-compliance with the conditions of the security has occurred, the security shall not be deemed to have been invalidated or discharged, and the subscribers shall not be deemed to have been released or discharged from liability by reason of—

- (a) an extension of time or other concession;
- (b) the Commissioner having consented to, or acquiesced in a previous non-compliance with the conditions; or
- (c) the Commissioner having failed to bring suit against the subscribers upon the occurrence of any previous non-compliance.

56. In any prosecution for an offence against the regulations, a certificate under the hand of any person that a document annexed to the certificate is a true copy of a letter or notice sent by that person to the defendant shall be *prima facie* evidence of the matters certified to and that the original letter or notice of which the document purports to be a copy was received by the defendant on or about the time at which it would be delivered in the ordinary course of post if it had been sent on the date borne by the document, and that the signature on the certificate is the signature of the person by whom it purports to have been signed.

Reg. 55.

Western Australia.

Prices Control Regulations, 1949.

SECURITY TO THE STATE OF WESTERN AUSTRALIA.

By this Security, the subscribers are, pursuant to the Prices Control Regulations made under the provisions of the Prices Control Act, 1948, bound to the State of Western Australia in the sum of..... (here insert amount or mode of ascertaining amount intended to be paid in default of compliance with the condition) subject only to this condition: that if..... (here insert the condition of the security), then this security shall be thereby discharged.

Dated the.....day of....., 19.....

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.