

1958.]

*Unfair Trading and Profit
Control.*

[No. 47.]

UNFAIR TRADING AND PROFIT CONTROL.

7° Elizabeth II., No. XLVII.

No. 47 of 1958.

**AN ACT to amend the Unfair Trading and Profit
Control Act, 1956-1957.**

[Assented to 12th December, 1958.]

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:—

1. (1) This Act may be cited as the *Unfair Trading and Profit Control Act Amendment Act, 1958.* Short title and citation.

(2) In this Act the Unfair Trading and Profit Control Act, 1956-57, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Monopolies and Restrictive Trade Practices Control Act, 1956-1958.

Commence-
ment.

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

Amendment
of long title.

3. The long title to the principal Act is amended by substituting for the words, "Unfair Trading and Unfair Profit", the words, "Monopolies and Restrictive Trade Practices".

S. 8 amended.

4. Section eight of the principal Act is amended—

(a) by adding after the interpretation, "authorised officer" the following interpretations—

"collusive tender" means a tender made in pursuance of a collusive tendering scheme;

"collusive tendering scheme" means a scheme contrary to the public interest by which the parties to the scheme arrange to restrict competition among themselves in tendering for the sale or purchase of goods, or in tendering for the supply or use of services; ;

(b) by amending the interpretation, "Commissioner"—

(i) by adding after the word, "office" in line four of that interpretation, the passage, "which, prior to the coming into operation of the Unfair Trading and Profit Control Act Amendment Act, 1958, had the name"; and

(ii) by adding after the word, "Commissioner" being the last word in that interpretation, the passage, ", and which, on and after the coming into

operation of the Unfair Trading and Profit Control Act Amendment Act, 1958, has the name of Monopolies and Restrictive Trade Practices Control Commissioner”;

- (c) by inserting after the word “sale” wherever appearing in subparagraph (ii) of paragraph (d) of the interpretation of “unfair trading methods” or “unfair methods of trade competition”, the words “or agreement to sell”;
- (d) by adding after the word “quality” at the end of subparagraph (ii) of paragraph (d) of the interpretation of “unfair trading methods” or “unfair methods of trade competition”, the words “and with like conditions regarding delivery”.

5. Section eleven of the principal Act is amended— S. 11
amended

- (a) by adding after the section designation, “11” the subsection designation, “(1)”;
- (b) by adding the following subsection—

(2) (a) On the day of the coming into operation of the Unfair Trading and Profit Control Act Amendment Act, 1958, the name of the office is changed to, and then and thereafter shall be that of, Monopolies and Restrictive Trade Practices Control Commissioner.

(b) Paragraph (a) of this subsection does not affect the appointment of, or the exercise under this Act of any power or function by, the occupant of the office prior to that day.

6. Section thirty of the principal Act is amended— S. 30
amended

- (a) by deleting the passage, “shall be final and binding on all parties thereto, and” in lines eight and nine of subsection (3); and

(b) by adding after subsection (3) the following subsections—

Cf. No. 36 of 1935, s. 58 (1) (b) and (m) (b).

(3a) Any party to an appeal under subsection (3) of this section to a Judge in Chambers may appeal from the decision of the Judge to the Full Court under section fifty-eight of the Supreme Court Act, 1935.

Cf. Judiciary Act, 1903-1955, s. 35; and Commonwealth of Australia Constitution Act, s. 74.

(3b) To the extent, if any, to which authority is necessary for any party to an appeal under subsection (3), or under subsection (3a), of this section, to further appeal under any Act of the Parliament of the Commonwealth to the High Court of Australia, authority to that extent is hereby conferred.

S. 39A. added. 7. The principal Act is amended by adding after section thirty-nine the following section—

Protection against detrimental treatment.

39A. (1) A person shall not, by any threat, or in any other manner, endeavour to dissuade or prevent a person from invoking any of the provisions of this Act for protection from unfair trading.

(2) A person shall not—

- (a) make or enter into any collusive tendering scheme;
- (b) make any collusive tender;
- (c) keep or record for the purposes of a collusive tendering scheme any particulars of a tender whether made or proposed.

(3) A person shall not do, or procure to be done, anything for the purpose of imposing any detriment or disadvantage upon a person who has invoked or endeavoured to invoke any of the provisions of this Act for protection from unfair trading.

(4) Where two or more persons have whether before, on, or after the day of the coming into operation of this Act, entered into an agreement or arrangement in relation to trade or business, if any of the persons has, whether before, on, or after that day, invoked any of the provisions of this Act for protection from unfair trading, none of the persons shall alter the agreement or arrangement on, or after, that day without first obtaining the approval of the Commissioner to the alteration, and without that approval no such alteration is effective.

8. The heading to the Schedule to the principal Act is amended by substituting for the reference to the Unfair Trading and Profit Control Act, 1956, the following reference—

Schedule
amended.

Monopolies and Restrictive Trade Practices
Control Act, 1956.
