

[AS REPORTED FROM THE INDUSTRIES AND COMMERCE  
COMMITTEE]

House of Representatives, 7th November, 1947

Hon. Mr. Nordmeyer

CONTROL OF PRICES

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A BILL INTITULED

**Title.** AN ACT to make Provision with respect to the Control of Prices.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 5

**Short Title and commencement.** 1. This Act may be cited as the Control of Prices Act, 1947, and shall come into force on the first day of ~~November~~, December, nineteen hundred and forty-seven. 10

**Interpretation.** 2. (1) In this Act, unless the context otherwise requires,—

“ Books or documents ” includes accounts, balance-sheets, vouchers, records, contracts, and other instruments: 15

*New*

“ Director ” means the person holding office in the Public Service as the Director of Price Control:

“ Minister ” means the Minister of Industries and Commerce: 20

“ Person ” includes a local authority or public body, and any association of persons, whether incorporated or not:

- 5 "Price", in relation to the sale of any goods or to the performance of any services, includes every valuable consideration whatsoever, whether direct or indirect; and includes any consideration which in effect relates to the sale of any goods or to the performance of any services, although ostensibly relating to any other matter or thing:
- 10 "Price Order" means a Price Order made under this Act:
- 15 "Retailer", in relation to the sale of any goods, includes every person, other than a wholesaler, who sells such goods to any other person, and, in respect of the sale of any goods by a wholesaler to any person for any purpose other than resale, includes that wholesaler:
- 20 "Sale" includes barter and every other disposition for valuable consideration:
- "Shop" has the same meaning as in the Shops and Offices Act, 1921-22: See Reprint of Statutes, Vol. III, p. 240
- "Special approval" means an approval in respect of prices given under section *fifteen* of this Act.
- 25 "Tribunal" means the Price Tribunal constituted by this Act:
- "Wholesaler", in relation to the sale of any goods, means a person who sells such goods to any person for the purpose of resale.
- 30 (2) Where, after a contract of sale of any goods has been made in which no price has been expressly agreed upon, the seller, by himself or his agent, demands or receives any price from the buyer, the seller shall be deemed for the purposes of this Act to
- 35 have sold the goods at the price so demanded or received.

## PART I

## PRICE TRIBUNAL

*Constitution*

- 40 3. (1) For the purposes of this Act there shall be a special Tribunal, to be known as the Price Tribunal, which shall be deemed to be the same Tribunal as the Price Tribunal constituted by the Control of Prices Emergency Regulations 1939. Price Tribunal. Serial number 1939/275

(2) The Tribunal shall consist of—

(a) A President, who shall be appointed as such:

(b) One or more ordinary members:

(c) One or more associate members, who shall be appointed as such.

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(3) For the purposes of this Act any member who is not specifically appointed as the President or as an associate member shall be deemed to be an ordinary member.

(4) The members of the Tribunal shall be appointed by the Governor-General on the recommendation of the Minister, and shall hold office during the pleasure of the Governor-General.

*Struck out*

(5) In addition to their functions as members of the Tribunal, the associate members shall carry out such duties in relation to the functions of the Tribunal as may from time to time be required of them by or with the authority of the Minister.

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Seal.

4. The Tribunal shall have a seal, which shall be judicially noticed in all Courts.

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Sittings of Tribunal.

53 (1) Not less than two members (*other than associate members*) shall be present at every sitting of the Tribunal.

(2) The President shall preside at every sitting of the Tribunal at which he is present.

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(3) In the absence of the President from any sitting of the Tribunal, an ordinary member shall preside. If at any time there are more ordinary members than one, the Minister shall determine which of the ordinary members shall, in the absence of the President, preside at sittings of the Tribunal.

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(4) If at any sitting of the Tribunal two members only are present, both of those members shall concur in every decision of the Tribunal. In every other case a decision of a majority of the members present shall be the decision of the Tribunal, and in the event of an equality of votes the presiding member shall have a casting vote as well as a deliberative vote.

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(5) Except as provided in the next succeeding section, every sitting of the Tribunal shall be held in public.

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(6) The Tribunal may—

(a) Deliberate in private as to its decision in any case or as to any question arising in the course of any proceedings:

5 (b) Order that any case or any class of cases be heard in private, either as to the whole or any portion thereof:

10 (c) Make an order prohibiting the publication of any report or account of the evidence or other proceedings in any case (whether heard in public or in private), either as to the whole or any portion thereof.

15 6. (1) Associate members shall be competent to sit as members of the Tribunal only in accordance with the following provisions, namely:—

(a) By direction of the Minister, given to the President of the Tribunal, any or all of the associate members may sit as members at any sitting of the Tribunal:

20 (b) In the absence of any direction given by the Minister, or in any case to which a direction given by the Minister does not extend, any or all of the associate members may, with the concurrence of the presiding member, sit as members at any sitting of the Tribunal.

25 (2) Any direction given by the Minister under this section may be of general application or may be limited in its application to any specified sitting or to specified sittings of the Tribunal, or to sittings where matters of any specified class or specified classes are dealt with.

30 (3) Every sitting of the Tribunal in respect of which the provisions of section *five* of this Act have been complied with shall be deemed to have been validly constituted, and no person shall be concerned to inquire, with respect to any sitting of the Tribunal, whether or not any directions have been given by the Minister under this section or whether any such directions have been complied with.

40 7. Except as hereinbefore provided, the Tribunal shall determine its own procedure. Procedure.

*Struck out*

Members and  
officers to  
maintain  
secrecy.

8. It shall be the duty of the members of the Tribunal, and of all persons engaged or employed in connection with the work of the Tribunal, to refrain from divulging to unauthorized persons or for unauthorized purposes any information that may come to their knowledge in the course of their duties.

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*New*

8A. (1) Every member of the Tribunal and every person engaged or employed in connection with the work of the Tribunal—

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(a) Shall maintain and aid in maintaining the secrecy of all matters relating to this Act which come to his knowledge, and shall not communicate any such matters to any person, except for the purpose of carrying into effect this Act or any other enactment relating to the control of prices; and also

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(b) Shall, before he begins to perform any official duty under this Act, take and subscribe such oath of fidelity and secrecy as is prescribed, which oath may be administered by any member of the Tribunal or by any Justice of the Peace.

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(2) Every person who wilfully acts in contravention of the true intent of that oath commits an offence against this Act, and shall be liable on summary conviction before a Magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds.

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Remuneration  
and allowances  
of members.

9. (1) Members of the Tribunal, not being officers of the Public Service or persons in receipt of salaries payable out of public moneys, may in respect of their services as members of the Tribunal be paid such salaries or other remuneration as may be fixed by the Minister with the concurrence of the Minister of Finance, either generally or in any particular case.

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(2) Members of the Tribunal, not being officers of the Public Service, may also be paid any expenses reasonably incurred by them for locomotion, board, or lodging in respect of their attendance at meetings of the Tribunal or when travelling on the business of the Tribunal.

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*General Powers and Functions of Tribunal*

10. The general duties and functions of the Tribunal shall be:— General powers and functions.

- 5 (a) To fix prices for goods and services:  
 (b) To investigate any complaints that may be made direct to the Tribunal or that may be referred to it by the Minister with respect to the prices of any goods or services:  
 10 (c) To maintain a survey of the prices of goods or services, to institute proceedings for offences in relation to prices, and to take such other steps as in its opinion may be necessary to prevent profiteering or the exploitation of the public.

15 11. (1) In the exercise of its functions under this Act the Tribunal may hold such inquiries or may conduct such investigations as it thinks fit. Inquiries and investigations.

- 20 (2) At any such inquiry the Tribunal may hear evidence on oath, and may, by order under the seal of the Tribunal, summon any person to appear before it and to give evidence as to the subject-matter of the inquiry, and may require any witness to produce to the Tribunal all or any books or documents in his possession or control relative to the subject-matter of  
 25 the inquiry.

*New*

- 30 (2A) Where any person has appeared as a witness before the Tribunal pursuant to a summons in that behalf, or has given evidence before the Tribunal, whether pursuant to a summons or not, the Tribunal may, if it thinks fit, order any sum to be paid to that witness on account of his expenses, not exceeding the amount that would be payable to him if his attendance had been as a witness for the Crown in a criminal case  
 35 in accordance with the regulations for the time being in force for the payment of witnesses for the Crown in criminal cases.

(3) For the purposes of any inquiry or investigation conducted by the Tribunal, any person authorized  
 40 in that behalf by writing under the seal of the Tribunal may—

- (a) Inspect, examine, and audit any books or documents:

- (b) Require any person to produce any books or documents in his possession or under his control, and to allow copies of or extracts from any such books or documents to be made: 5
- (c) Require any person to furnish, in a form to be approved by or acceptable to the Tribunal, any information or particulars that may be required by the Tribunal, and any copies of or extracts from any such books or documents as aforesaid. 10
- (4) The Tribunal may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Tribunal may require. 15

## Returns.

12. (1) The Tribunal may from time to time, by notice given in such manner as it thinks fit, require any person engaged in the production, manufacture, distribution, or sale of any goods, or all persons belonging to any specified class or to specified classes of persons so engaged (with or without exception) to furnish, within a specified time and in a specified form or in a form acceptable to the Tribunal, returns setting forth all or any of the following particulars, namely:— 25
- (a) The quantity of such goods or of any of such goods in the possession or under the control on a specified date of the person making the return:
- (b) The cost-price of such goods to the person making the return: 30
- (c) The methods and principles in accordance with which such cost-price has been determined:
- (d) The prices for which and the terms and conditions on which he proposes to sell any such goods, or the prices, terms, and conditions for and subject to which he has theretofore sold any such goods: 35
- (e) The prices charged by the person making the return for goods of the same or substantially the same kind on the ~~third~~ first day of September, nineteen hundred and *thirty-nine*, or on any other date specified by or acceptable to the Tribunal: 40



(f) Such further particulars in relation to any such goods or prices or conditions of sale as the Tribunal may require.

(2) Every return furnished under this section shall be verified by statutory declaration or otherwise as the Tribunal may require.

(3) In any prosecution for an offence against this Act the production of any return furnished by the defendant under this section or under the corresponding provisions of any regulations revoked by this Act, or the production of any copy of or extract from any such return, certified under the seal of the Tribunal to be a correct copy or extract, shall in the absence of proof to the contrary be sufficient evidence against the defendant of the truth of the statements contained therein.

~~13. (1) Any member of the Tribunal or any person~~ authorized in that behalf by writing under the seal of the Tribunal may at any reasonable time enter upon and search any premises used or reasonably supposed to be used for the manufacture or storage of goods intended for sale, and may inspect and take records of any stocks found thereon or therein, and may, on payment or tender of a reasonable price, take samples of any such goods.

Power to inspect stocks and take samples.

*New*

(2) Every person authorized in writing as aforesaid shall produce his authority when so required by any person on whose premises he enters in the course of his duty.

(3) Every person who falsely represents himself to be a person authorized in writing as aforesaid commits an offence against this Act.

PART II

CONTROL OF PRICES

*Price Orders*

14. (1) The Tribunal may from time to time, with the authority of the Minister, make orders (in this Act referred to as Price Orders) fixing, in such manner as it thinks fit, the actual or the maximum or the minimum prices that may be charged or received for any goods to which any such Order relates.

Price Orders.

(2) In any Price Order the Tribunal, having regard to different forms, modes, or conditions of sale or delivery, or to the purposes for which any goods are used or intended to be used, or to the places or localities at or within which any goods are sold or delivered, 5 or to any other relevant considerations, may fix different prices for goods of the same kind or class, and, in particular, may fix different prices in respect of sales of any of the following classes, namely:—

(a) Sales by wholesalers or by wholesalers of 10 different classes:

(b) Sales by retailers or by retailers of different classes:

(c) Sales for delivery within specified areas or 15 localities:

(d) Sales of different quantities, qualities, grades, or classes of goods:

(e) Sales by or to or for the use of different persons or classes of persons.

(3) Any Price Order may be limited in its applica- 20 tion to sales of any one or more of the classes referred to in the *last preceding* subsection.

(4) In any Price Order the Tribunal may include such provisions, not inconsistent with this Act, as it thinks necessary or desirable for the proper administra- 25 tion of the Price Order or to ensure compliance with the terms thereof, and every person shall be deemed to have committed an offence against this Act who commits a breach of or fails to comply with any obligations imposed on him by any such provisions. 30

(5) Any Price Order may be at any time in like manner amended with respect to the prices fixed thereby or in any other particular or respect, or may be at any time in like manner revoked.

(6) Every Price Order shall be published in the 35 *Gazette*, and no Price Order shall come into force before it has been so published.

(7) On and after the expiration of ~~seven~~ fourteen 40 days from the date of publication in the *Gazette* of a Price Order fixing the retail price of any goods it shall be the duty of every retailer whose business includes the selling of any goods to which the Price Order relates to keep a copy of the Price Order or a statement of the retail prices fixed thereby in respect of

any goods prominently displayed in his shop in such a position that customers may examine the Price Order or statement without having to ask for its production or without having to obtain permission to  
5 examine it-- :

*New*

10 Provided that if the Tribunal declares that this subsection shall not apply to any Price Order or class of Price Orders specified in the declaration, this subsection shall not apply with respect to that Price Order or class of Price Orders so long as the declaration continues in force.

15 (8) Every Price-reduction Order made under Regulation seven of the Control of Prices Emergency Regulations 1939, Amendment No. 3, and in force at the commencement of this Act, shall be deemed to be a Price Order made under this section. Serial number  
1942/336

*Specially approved Prices*

20 15. (1) The Tribunal may, by approval given in accordance with this section, authorize a selling-price in respect of the sale of any goods. Specially  
approved  
prices.

(2) Any approval given for the purposes of this section—

- 25 (a) May be absolute or conditional; or  
(b) May apply to specified goods or to goods of a specified kind or class; or  
(c) May apply with respect to the sale of goods by a specified person or by persons of a specified class; or  
30 (d) May be of general application throughout New Zealand or may be limited in its application to any specified locality or specified localities or to localities of a specified class. If the approval is not expressed to be limited to  
35 any locality or localities, it shall be deemed to have been given in respect of the whole of New Zealand.

40 (3) Any approval given for the purposes of this section may specify the maximum prices that may be charged for the goods to which the approval relates, or may fix the maximum prices that may be so charged in any manner that the Tribunal thinks fit.

(4) Any approval given under this section shall to the extent thereof operate as if it were a Price Order fixing the approved prices as the maximum prices of the goods to which it relates.

(5) The provisions of section *fourteen* of this Act, as to Price Orders, other than the provisions contained in subsections *six* and *seven* thereof, shall, so far as applicable and subject to any necessary modifications, apply with respect to approvals given under this section in the same manner as they apply to Price Orders.

### PART III

#### PRICES NOT FIXED BY TRIBUNAL

Application of  
this Part.

16. (1) This Part of this Act applies with respect to all goods that are not for the time being subject to a Price Order or to a special approval made or given under Part II of this Act, *or are not for the time being exempted under the next succeeding section.*

(2) Where any Price Order or special approval as aforesaid is in any manner or to any extent limited in its application to any goods, this Part of this Act shall apply with respect to those goods to the extent to which the prices thereof are not fixed by Price Order or special approval, *unless the goods are for the time being exempted under the next succeeding section.*

#### *New*

Exemptions.

16A. (1) The Tribunal may from time to time, by notice given in such manner as it thinks fit, exempt any goods or goods belonging to a specified kind or class from this Part of this Act.

(2) Any notice under this section may be at any time in like manner amended or revoked.

Maximum  
prices.

17. (1) The maximum prices that may be charged or received for any goods to which this Part of this Act applies shall be determined:—

(a) In the case of goods of a kind that were sold in any place in New Zealand on or before the prescribed date, by reference to the prices for which goods of the same kind were sold on the prescribed date, or, if no such goods were sold on that date, by reference to the prices for which goods of the same kind were last sold before that date:

(b) In the case of goods of a kind that were first sold in any place in New Zealand after the prescribed date (whether before or after the commencement of this Act), by reference to the prices for which goods of the same kind were first sold in any place in New Zealand.

(2) For the purposes of this Part of this Act the term "prescribed date" means the ~~third~~ first day of September, nineteen hundred and thirty-nine, or such later date as may for the time being be prescribed by regulations under this Act.

18. (1) Where on the prescribed date, or on any other material date, goods of any kind were sold at one price only, that price shall be the maximum price that may be charged or received for goods of the same kind that are subject to this Part of this Act.

Determination of maximum price.

(2) Where on the prescribed date, or on any other material date, goods of any kind were sold at different prices, the maximum price that may be charged or received for any goods of the same kind that are subject to this Part of this Act shall be the lowest of the prices charged on the material date for goods of that kind when sold in the same or substantially the same quantities, and on the same or substantially the same terms.

19. For the purposes of this Part of this Act goods shall be deemed to be of the same kind as any other goods if they are in fact of the same nature and quality, or if they are substantially of the same nature and quality.

Goods of same kind.

20. In any proceedings for an offence against this Part of this Act the following special provisions shall apply:—

Provisions as to offences.

(a) It shall be a matter of fact, determinable by the Court, whether or not any goods are or were of substantially the same nature and quality as any other goods, or were sold in substantially the same quantity as any other goods, or whether or not the terms of the sale of any goods were substantially the same as the terms of the sale of any other goods:

- (b) The burden of proving, in respect of any goods, that any variation of nature, quality, or quantity (in relation to any other goods), or that any variation of the terms of sale (in relation to the terms of sale of any other goods), is or was a substantial variation within the meaning of this section shall be on the defendant: 5
- (c) If it is proved to the satisfaction of the Court that the defendant or any other person, on any date subsequent to the prescribed date, or subsequent to any other material date, sold goods at a certain price, that price shall, in the absence of proof to the contrary, be deemed to be the price or the lowest price, as the case may be, for which goods of the same nature and quality were sold on the material date, and it shall not be necessary to produce evidence as to the actual sale of any such goods on the material date or as to the price for which any such goods were sold on the material date. 10 15 20

#### PART IV

##### OFFENCES AND PENALTIES

###### Profiteering.

21. (1) Every person commits an offence against this section who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any goods at a price which is unreasonably high. 25

(2) For the purposes of this section the price of any goods shall be deemed to be unreasonably high if it produces, or is calculated to produce, more than a fair and reasonable rate of commercial profit to the person selling, or offering to sell, those goods, or to his principal: 30

Provided that no price that has been fixed or approved by the Tribunal shall be deemed, for the purposes of this section, to be unreasonably high. 35

(3) In determining, in the course of any proceedings for an offence against this section, whether or not the price of any goods is or was unreasonably high, no account shall be taken of the cost to the seller or, as  
5 the case may be, to his principal, that has been or that would be involved in replacing those goods for the purposes of his business, or of the cost-price or the selling-price of any other goods.

(4) Subject to the foregoing provisions of this  
10 section, the Court, in any proceedings for an offence against this section, shall determine as a matter of fact and not of law whether or not any price is or was unreasonably high.

**22.** Every person commits an offence against this  
15 section who, whether as principal or agent, and whether by himself or his agent, sells any goods for purposes of resale, unless he is satisfied—

(a) That the goods are required by the buyer, in  
20 good faith, for the legitimate purposes of his business; and

(b) In particular, that the effect of the transaction,  
whether by itself or taken in conjunction with transactions of the same or of a similar  
25 nature, will not be to increase or will not tend to increase the price to the ultimate buyer of the goods above a fair and reasonable price (whether that price be a lawful price or not):

Provided that this section shall not apply with  
30 respect to the sale of any goods to a retailer for purposes of retail sale.

**23.** ~~(1)~~ Every person commits an offence against  
this section who, being in possession of goods for  
mercantile purposes, destroys or hoards the goods, or  
refuses to sell the goods or to make them available for  
35 sale, if such destruction or hoarding or refusal raises, or tends to raise, or is intended to raise the cost of other similar goods to the public--:

*Struck out*

**40** (2) Every person commits an offence against this section who, whether as principal or agent, and whether by himself or his agent, refuses to sell any goods except on the condition that other goods are also purchased, or attempts to impose any such condition:

*Struck out*

Provided that nothing in this subsection shall be construed to render unlawful any condition against the separate sale of any goods forming part of a set or forming part of a single or composite article.	5
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Penalties.

**24.** Every person who (whether as seller or buyer or otherwise howsoever) commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other person to commit any offence against the foregoing provisions of this Part of this Act shall be liable, in the case of an individual, to a fine not less than *fifty* pounds but not exceeding *one thousand* pounds, or to imprisonment for a term not exceeding *six* months, or to both such fine and such imprisonment, and, in the case of a company or other corporation, to a fine not less than ~~two hundred and~~ *fifty* pounds but not exceeding *five thousand* pounds. 10

Forfeiture of goods.

**25.** (1) If on the conviction of any person for an offence against the foregoing provisions of this Part of this Act the goods or any of the goods in respect of which the proceedings were taken are found to be the property of the convicted person, the convicting Court, in addition to imposing any other penalty, may make an order for the forfeiture of those goods or of any of them to the Crown. 25

(2) All goods forfeited under this section shall, on forfeiture, become the property of the Crown, and may be sold or otherwise disposed of as the Minister may direct. 30

(3) The net proceeds derived from the sale or other disposition of any such goods (after defraying the cost of sale or other disposition and any claims in respect thereof made and proved by innocent persons) shall be paid into the Consolidated Fund. 35

Failure to give evidence, &amp;c.

**26.** Every person commits an offence against this Act who—

(a) Having been summoned to appear before the Tribunal for the purposes of any inquiry, refuses or wilfully neglects to appear before the Tribunal in pursuance of the summons, or to take an oath or make an affirmation as 40



a witness, or to answer any question put to him concerning the subject-matter of the inquiry, or to produce to the Tribunal any book or document that he is required to produce:

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(b) Resists, obstructs, deceives, or attempts to deceive the Tribunal or any person who is exercising or attempting to exercise any power or function under this Act or under any regulations made under this Act:

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(c) Makes any false or misleading statement or any material omission in any information, particulars, copy, extract, or return furnished under this Act.

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**27.** (1) While a Price Order or a special approval in respect of any goods remains in force every person who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any goods to which the Order or approval relates for a price that is not in conformity with the Order or approval commits an offence against this Act.

Sales and purchases otherwise than at fixed price.

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(2) While a Price Order or a special approval in respect of any goods remains in force every person who, whether as principal or agent, and whether by himself or his agent, sells any goods to which the Order or approval relates and thereafter demands for any such goods a price that is not in conformity with the Order or approval commits an offence against this Act.

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(3) While a Price Order or a special approval in respect of any goods remains in force every person who, whether as buyer or seller or otherwise howsoever, is party to any device, plan, or scheme for the purchase or sale of any goods to which the Order or approval relates at a price that is not in conformity with the Order or approval commits an offence against this Act.

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(4) The foregoing provisions of this section shall, with the necessary modifications, apply with respect to the sale or offer for sale, at a price in excess of the appropriate maximum price, of any goods to which Part III of this Act is for the time being applicable.

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Sales of goods of which prices are fixed together with other goods.

**28.** While a Price Order or a special approval in respect of any goods remains in force, every person commits an offence against this section who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any goods to which the Order or approval relates together with any other goods of a different kind or class, unless the price demanded or received for the first-mentioned goods is specified separately, whether or not the other goods are subject to the same or any other Price Order or special approval:—

*New*

Provided that this section shall not apply with respect to any sale or agreement or offer to sell made or entered into with the authority in writing of the Tribunal.

Refusal to sell goods unless other goods are also purchased.

**28A.** Every person commits an offence against this Act who, whether as principal or agent, and whether by himself or his agent, refuses to sell any goods except on the condition that other goods are also purchased, or attempts to impose any such condition:

Provided that nothing in this section shall be construed to render unlawful any condition against the separate sale of any goods forming part of a set or forming part of a single or composite article, or any condition imposed with the authority in writing of the Tribunal.

Offences as to price-lists, packing, and manufacture.

**29.** (1) Every person commits an offence against this Act who, without the authority in writing of the Price - Tribunal,—

*Struck out*

- (a) Issues any price-list or similar document containing a statement to the effect that all or any of the prices mentioned therein have been approved by the Tribunal (whether or not they have in fact been so approved); or
- (b) Describes or refers to as an actual or minimum price, or otherwise than as a maximum price, any maximum price fixed by or under this Act; or

- (c) Demands or receives in respect of any goods a price expressed to be subject to adjustment or alteration after the giving by the Tribunal of any decision that may affect the price; or
- 5 (d) Packs or puts up any goods for sale in a container of a size smaller than any container theretofore ordinarily used by him for goods of the same kind and of approximately the same quantity; or
- 10 (e) Packs or puts up for sale in any container a quantity of goods smaller than the quantity of such goods theretofore ordinarily packed or put up by him in a container of the same or approximately the same size; or
- 15 (f) Alters, to the prejudice of the user, the formula or recipe theretofore ordinarily used by him in the production or manufacture of any goods; or
- 20 (g) Manufactures for purposes of sale any goods of a quality inferior to the quality of similar goods theretofore manufactured by him or by a predecessor in business.

*New*

- 25 (2) Every person commits an offence against this Act who—
- (a) Makes any false or misleading statement, in writing or otherwise, as to whether any price has or has not been fixed or approved by or under this Act, or as to the amount of any price that has been so fixed or approved; or makes any false or misleading statement or any material omission in any statement, in writing or otherwise, purporting to give the whole or any part of the terms or effect of a Price Order or special approval:
- 30
- 35 (b) Describes or refers to as an actual or minimum price, or otherwise than as a maximum price, any maximum price fixed or approved by or under this Act.

General  
offences.

30. (1) Every person commits an offence against this Act who, without lawful justification or excuse, does any act in contravention thereof or fails to comply in any particular with any obligation or duty imposed on him by this Act or by any Order or other act of authority made or done pursuant to this Act. 5

(2) Nothing in this section shall be construed to limit any other provision of this Act.

*Provision for Forfeiture of Excess over Authorized Prices* 10

Excess price  
may be  
forfeited and  
refunded to  
purchaser.

31. (1) In this section the expression "authorized price", in relation to any goods, means the price or the maximum price for which those goods may lawfully be sold.

(2) On the conviction of any person of an offence involving the sale of any goods at a price in excess of the authorized price the convicting Court, on application by or on behalf of the Tribunal, may make an order for payment by the defendant ~~into the Consolidated Fund~~ of an amount not exceeding the difference (to be ascertained and specified by the Court) between the price actually charged by the defendant and the authorized price. 15 20

(3) All moneys payable ~~into the Consolidated Fund~~ pursuant to an order made under this section shall be recoverable, in accordance with the Summary Penalties Act, 1939, in the same manner as fines and costs are recoverable. 25

1939, No. 11

(4) Where in any such case the convicting Court is satisfied that the whole or any part of the excess price has been paid to the defendant by any other person, the Court, if having regard to all the circumstances of the case it deems it just and equitable so to do, may make an order authorizing the payment to that other person of such amount as the Court thinks fit, not exceeding the amount of the excess price so paid by that other person. 30 35

*Struck out*

(5) All amounts so authorized to be paid shall, without further appropriation than this section, be paid accordingly out of the Consolidated Fund: 40

*New*

(5A) An order made under subsection *four* of this section shall be sufficient authority to the Clerk of the Court to pay the amount so authorized:

5 Provided that in no case shall the total amount so paid exceed the amount recovered from the defendant under this section.

*General Provisions as to Offences*

10 **32.** An information for any offence against this Act may be laid at any time within ~~three~~-two years after the commission of the offence. Time for laying information.

15 **33.** (1) If in any proceedings for an offence against this Act it is proved against the defendant that the goods to which the proceedings relate were goods of the same kind or class as goods which he admits or is proved to have acquired for a certain price, the goods sold by him shall, in the absence of proof to the contrary, be deemed to be identical with or to be part of the goods acquired by him at that price. Evidence.

20 (2) In any proceedings for an offence against this Act in respect of the sale of any goods, the production by or on behalf of the informant of a verified copy of any entry in any accounts or records kept by or on behalf of the defendant, or of any invoice, receipt, sales-docket, or other document issued by or on behalf of the defendant, and purporting to disclose the price at which such goods have been sold, shall, in the absence of proof to the contrary, be sufficient evidence of the sale of the goods and of the price charged therefor.

30 **34.** Every person who aids, abets, counsels, or procures or is in any way knowingly concerned with the commission of an offence against this Act shall be deemed to have committed an offence against this Act. Aiding and abetting.

35 **35.** Except where otherwise expressly provided in this Act every person who commits or attempts to commit or does any act with intent to commit any offence against this Act shall be liable, in the case of an individual, to a fine not exceeding *one hundred* pounds, and in the case of a company or other corporation to a fine not exceeding *five hundred* pounds. General penalty.

40

## PART V

## MISCELLANEOUS PROVISIONS

*New**Director of Price Control*

Delegation of  
powers of  
Tribunal to  
Director.

**35A.** (1) With the written consent of the Minister, 5  
the Tribunal may from time to time, by notice in  
writing, either generally or particularly, delegate to the  
Director all or any of the powers exercisable by it  
under this Act, including this present power of dele-  
gation and the power to give special approvals under 10  
section *fifteen* of this Act, but not including the power  
to make Price Orders.

(2) Subject to any general or special directions  
given or conditions attached by the Tribunal, the  
Director may exercise any powers that are delegated 15  
under this section in the same manner and with the  
same effect as if they had been conferred on him  
directly by this section and not by delegation.

(3) Whenever the Director purports to exercise any  
power of the Tribunal he shall be deemed in the absence 20  
of proof to the contrary to be acting in accordance with  
the terms of a delegation under this section.

(4) Any delegation under this section may be at  
any time in like manner amended or revoked, and no  
such delegation shall prevent the exercise of any power 25  
by the Tribunal.

(5) Any such delegation shall, until revoked, con-  
tinue in force according to its tenor, notwithstanding  
the fact that the Director to whom it was made may  
have ceased to hold office, and shall continue to have 30  
effect as if made to the successor in office of that  
Director.

(6) Any person directly or indirectly affected by  
any act or decision of the Director acting pursuant to  
a delegation under this section may at any time appeal 35  
therefrom to the Tribunal by giving to the Director a  
written notice of appeal.

(7) The Tribunal may determine any appeal under  
this section in such manner as it thinks fit, but, unless  
the Tribunal otherwise orders, the act or decision 40  
appealed from shall remain in full force pending the  
determination of the appeal.

*Prohibition of Sale of Goods pending Fixation of Prices*

36. (1) The Tribunal may at any time, by notice published in the *Gazette* and in such other manner, if any, as it thinks fit, declare any goods or goods belonging to a specified kind or class to be goods to which the provisions of this section shall be applicable. Any notice given under this subsection may be of general application to all goods specified or referred to therein or may be limited in its application to goods belonging to or in the disposition of any person, or may be otherwise limited in any manner that the Tribunal thinks fit.

Tribunal may prohibit sale of declared classes of goods.

(2) By the same or a subsequent notice, given in such manner as the Tribunal deems adequate in the circumstances of the case, the Tribunal may prohibit absolutely or conditionally the sale of any such goods by any specified person or by any person of a specified class or by any person whomsoever unless a selling-price or a maximum selling-price applicable to the sale has been fixed or approved by a Price Order or a special approval under this Act.

(3) Every person who, while a notice under the *last preceding* subsection remains in force, sells or agrees or offers to sell any goods in contravention of the terms of that notice shall be guilty of an offence against this Act.

(4) If in any proceedings for an offence against this section the defendant alleges that the goods or any of the goods to which the proceedings relate were not goods subject to the terms of a notice given by the Tribunal under this section the burden of proving in respect of those goods that they were not subject to the terms of such notice shall be on the defendant.

*Hire-purchase Agreements*

37. (1) For the purposes of this section—

“ Hire-purchase agreement ” means an agreement whereby goods are let or hired with an option of purchase, or an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as such, or as rent or hire, or otherwise howsoever):

Application of Act to hire-purchase agreements.

1939, No. 14

“ Vendor ” and “ purchaser ” have respectively the same meanings as in the Hire-purchase Agreements Act, 1939.

Serial number  
1942/336

(2) The disposition of any goods by a hire-purchase agreement entered into after the fifteenth day of December, nineteen hundred and forty-two (being the date of the coming into force of the Control of Prices Emergency Regulations 1939, Amendment No. 3), shall be deemed for the purposes of this Act to be a sale of those goods from the vendor to the purchaser on the date on which possession of the goods is delivered to the purchaser. Where in any hire-purchase agreement the amount to be paid or other consideration to be given is separately fixed with respect to any item or items, the agreement shall, for the purposes of this Act, be deemed to be a separate agreement in its application to each of the items for which the consideration is so fixed.

(3) The purchase-price of any goods subject to a hire-purchase agreement as aforesaid shall be deemed to be the total amount of the moneys required to be paid for those goods by the purchaser under the agreement and the value of any other consideration provided or required to be provided by the purchaser.

#### *New Lines of Goods*

Fixing prices  
for new lines  
of goods.

38. (1) In this section the expression “ new line of goods ” means any kind or class of goods that were not sold in New Zealand or in any specified locality on or before the ~~third~~ first day of *September*, nineteen hundred and *thirty-nine*, or such later date as may for the time being be prescribed by regulations under this Act. The decision of the Tribunal that goods of any specified kind or class are (or as the case may require, are not) a new line, either generally or in respect of any specified locality, shall be final and conclusive.

(2) The Tribunal may require any person who is engaged in selling or who proposes to sell any new line of goods (in this section referred to as the seller) to submit to the Tribunal such particulars as will enable it to determine whether or not the price charged or proposed to be charged by the seller for such goods is fair and reasonable.



(3) With respect to any new line of goods the Tribunal may make an order limited in its application to the seller or sellers named therein, but in all other respects in accordance with the provisions of this Act  
5 as to Price Orders.

(4) The provisions of Part II of this Act shall apply to orders made under this section as if such orders were Price Orders.

*Fixing of Prices by Local Authorities*

10 **39.** (1) In this section the term "local authority" includes every local authority and every public body or other authority created by or pursuant to any public Act or local Act. Restrictions on powers of local authorities.

(2) Where any local authority is empowered by  
15 any Act to fix or approve prices for any goods sold by any person other than the local authority, the powers of the local authority shall be subject to the following restrictions, namely:—

(a) If in respect of any goods the Tribunal has  
20 issued a Price Order or has given its approval of any prices, the local authority shall have no power to fix or approve any prices that are not in conformity with the terms of the Tribunal's Order or approval, and any prices  
25 that have been fixed or approved by the local authority before the coming into force of the Price Order or the Tribunal's approval shall thereafter be read subject to the terms of that Order or approval:

(b) In any other case the local authority shall have  
30 no power to fix or approve any prices in excess of the appropriate maximum prices fixed by this Act.

(3) Notwithstanding anything in the *last preceding*  
35 subsection, where any local authority, purporting to be acting under the authority of any Act, has heretofore fixed or approved any prices, those prices shall be deemed to have been lawfully fixed or approved and shall continue to operate as maximum prices until  
40 reduced by the local authority of its own motion or by direction of the Tribunal, or until altered by the Tribunal by means of a Price Order or unless and until other prices have been approved by the Tribunal.

*Rates of Charges for Services*

Act to apply  
to services as  
well as goods.

40. All the provisions of this Act shall, so far as applicable and with the necessary modifications, apply with respect to the performance of services (otherwise than pursuant to a contract of service between master and servant) and the rates or fees charged therefor in the same manner as they apply in respect of the sale of goods and the prices charged therefor. 5

Statement of  
charges for  
services to be  
displayed in  
certain cases.

41. (1) This section shall apply only with respect to services (being services for which the charges are fixed by Price Order or special approval) of a kind or class to which it is from time to time applied by the Tribunal by notice given by advertisement in one or more newspapers or given in such other manner as in the opinion of the Tribunal is sufficient. Any notice under this section may be of general application throughout New Zealand or its application may be limited to any locality specified therein. 10 15

(2) Every person engaged in performing any services to which a notice under this section applies shall, at all times while the notice is in force, keep prominently displayed in his place of business, so as to be easily read by persons requiring the performance of any such services, a copy of the Price Order or special approval or a statement of the charges fixed thereby in such a position that customers may examine the Price Order or approval or statement without having to ask for its production or without having to obtain permission to examine it. 20 25

*General Provisions*

Goods and  
services.

42. This Act shall apply with respect to transactions that involve the sale or other disposition of goods and also the performance of services. 30

Statement of  
increased  
prices to be  
displayed in  
certain cases.

43. (1) This section shall apply only with respect to goods of a kind or class to which it is from time to time applied by the Tribunal by notice given by advertisement in one or more newspapers or given in such other manner as in the opinion of the Tribunal is sufficient. Any notice under this section may be of general application throughout New Zealand or its application may be limited to any locality specified therein. 35 40

(2) Every retailer engaged in selling any goods to which a notice under this section applies shall, at all times while the notice is in force, keep prominently displayed in his shop, so as to be easily read by customers, printed or written notices showing particulars of former selling-prices and of new selling-prices, or showing rates or amounts of increases in prices. Every such notice shall contain a certificate to the effect that any increased prices have been duly authorized and that such prices are not applicable to any former stocks that were not included in the authority to increase prices.

44. Every person carrying on any business which includes the production, manufacture, sale, or supply of any goods shall, for the purposes of this Act, keep proper books and accounts and costing records (including any that may be specifically required by the Tribunal), and *except as otherwise authorized in writing by the Tribunal* shall preserve such books and accounts and costing records, including all invoices and copies of invoices, and all vouchers, agreements, correspondence, cables, telegrams, and other documents relating to his purchases, costs, and sales.

Books and accounts to be kept.

45. Where the seller of any goods has been authorized by the Tribunal, in or for the purposes of any Price Order or special approval, to take any freight charges into account in ascertaining the selling-price or the maximum selling-price of any goods, the maximum amount that may be taken into account in respect of such charges shall, in case of dispute, be provisionally fixed by the Tribunal, and in any proceedings in which the amount of such freight charges is in issue the burden of proving that the actual freight charges exceeded the amount provisionally fixed by the Tribunal shall be on the defendant.

Freight charges.

46. For the purposes of this Act the publication or exhibition of a price-list in respect of any goods or the furnishing of a quotation for any goods, or the exposure of any goods with a specification or an indication of the price thereof attached thereto or displayed in the vicinity thereof or in connection therewith, shall be deemed to constitute an offer to sell those goods at the price so specified or indicated.

Offers to sell goods.

*Struck out*Other Acts  
not affected.

**47.** Except as otherwise expressly provided, nothing in this Act shall be construed to affect the exercise by any person of any power to fix prices or charges in accordance with any other Act.

5

*New*Other Acts  
not affected.

**47A.** Nothing in this Act shall be construed to affect the exercise by any person of any power to fix prices or charges in accordance with any of the following enactments:—

10

See Reprint  
of Statutes,  
Vol. VIII,  
p. 832

1933, No. 36

(a) The Transport Licensing Act, 1931:

1934, No. 25

(b) The Motor-spirits (Regulation of Prices) Act, 1933:

1936, No. 5

(c) The Transport Licensing (Commercial Aircraft Services) Act, 1934:

15

1936, No. 14

(d) The Marketing Act, 1936:

1939, No. 19

(e) The Fair Rents Act, 1936:

1947, No. 2

(f) The Meat Act, 1939:

(g) The Dairy Products Marketing Commission Act, 1947:

20

Serial number  
1940/322

(h) The Hides Emergency Regulations 1940 (No. 2):

Serial number  
1942/21

(i) The Transport (Goods) Applied Provisions Order 1942:

Serial number  
1944/36  
(Reprint).

(j) The Economic Stabilization Emergency Regulations 1942:

25

Serial number  
1943/40

(k) The Goods-service Charges Tribunal Emergency Regulations 1943:

Serial number  
1947/15

(l) The Pickled Sheep and Lamb Pelt Emergency Regulations 1947:

Serial number  
1947/101

(m) The Sheep-skin Emergency Regulations 1947: 30

(n) Such other enactments as may from time to time be prescribed by regulations made under this Act.

Notices.

**48.** Any notice or approval given by the Tribunal under or for the purposes of this Act shall be deemed 35 to be sufficiently given if it is given in writing signed by one or more members of the Tribunal or by any person purporting to act by direction of the Tribunal, and is delivered or posted to the person or persons primarily concerned therewith, or to any person or 40 organization deemed by the Tribunal to represent the person or persons primarily concerned.

49. The Governor-General may from time to time, **Regulations.**  
by Order in Council, make all such regulations as may  
in his opinion be necessary for giving full effect to the  
provisions of this Act and for the due administration  
5 thereof.

50. (1) Paragraph (c) of subsection one of section **Repeals and**  
twenty-six, and section thirty-two of the Board of **savings.**  
Trade Act, 1919, and the Prevention of Profiteering **See Reprint**  
Act, 1936, are hereby repealed. **of Statutes,**  
**Vol. VIII,**

10 (2) The regulations specified in the Schedule to this **p. 629**  
Act are hereby revoked. **1936, No. 19**

*New*

15 (2A) All Board of Trade regulations made for the  
establishment of fixed or maximum or minimum prices  
or rates for any classes of goods or services or other-  
wise for the regulation or control of such prices or  
rates, and in force at the commencement of this Act,  
shall enure for the purposes of this Act as if they had  
20 been made as Price Orders under this Act, and accord-  
ingly shall, where necessary, be deemed to have been  
so made.

25 (3) All appointments, orders, approvals, and other  
acts of authority that originated under or for the  
purposes of any enactment repealed or revoked by this  
section, and are subsisting or in force at the commence-  
ment of this Act, shall enure for the purposes of this  
Act as if they had originated under this Act and  
accordingly shall, where necessary, be deemed to have  
so originated.

30 (4) All matters and proceedings that have been  
commenced under any such enactment, and are pending  
or in progress at the commencement of this Act, may be  
continued and completed under this Act.

35 (5) The repeal or revocation of the said enact-  
ments shall not affect the liability of any person for  
any offence in relation thereto, and proceedings for  
any such offence may be taken as if it were an offence  
against the corresponding provisions of this Act.

**SCHEDULE**

Schedule.

**REGULATIONS REVOKED**

Serial Number.	Title of Regulations.
1939/62	The Board of Trade (Price-investigation) Regulations 1939.
1939/122	The Price Stabilization Emergency Regulations 1939.
1939/275	The Control of Prices Emergency Regulations 1939.
1941/36	The Price Stabilization Emergency Regulations 1939, Amendment No. 1.
1941/123	The Control of Prices Emergency Regulations 1939, Amendment No. 1.
1942/12	The Control of Prices Emergency Regulations 1939, Amendment No. 2.
1942/336	The Control of Prices Emergency Regulations 1939, Amendment No. 3.
1944/3	The Control of Prices Emergency Regulations 1939, Amendment No. 4.
1944/174	The Control of Prices Emergency Regulations 1939, Amendment No. 5.