

## INDUSTRIES AND COMMERCE BILL

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### EXPLANATORY NOTE

THIS Bill provides for the constitution of the Department of Industries and Commerce and defines the functions and the general duties of the Department. It also repeals the Board of Trade Act 1919 and the Industrial Efficiency Act 1936 but retains some of the provisions of each of those Acts.

*Clauses 3 to 6* contain provisions establishing the Department and providing for the appointment of the necessary officers.

*Clause 7* defines the principal functions of the Department.

*Clause 8* prescribes the general duties of the Department in order to enable the Department to carry out its functions.

*Clause 9* authorises the Minister to enter into contracts of charterparty. It repeats an existing provision.

*Clause 10* permits the delegation by the Minister to the Secretary of any of the powers conferred on the Minister by the proposed Act.

*Clause 11* permits the delegation by the Secretary to any officer or officers of the Department of any of the powers conferred on the Secretary by the proposed Act.

*Clause 12* provides for the appointment by the Minister of advisory or technical committees.

*Clause 13* provides for the appointment by the Minister of Committees of Inquiry for the purpose of investigating and reporting to the Minister on any matters relating to industry and commerce.

*Clause 14* provides for the payment of fees and travelling allowances to members of committees appointed under the proposed Act.

*Clause 15* provides for the publication of information received by the Minister in the exercise of his functions under the Act and *clause 16* provides that any such publication shall be privileged. Both these clauses are similar to provisions now contained in the Board of Trade Act 1919.

*Clause 17* provides that the powers conferred by the proposed Act are in addition to powers conferred by any other enactment and that nothing in the Act shall limit or affect any powers conferred by any other Act.

*Clause 18* provides for the annual report of the Department to be submitted to Parliament.

*Clause 19* provides that those industries which, at the commencement of the proposed Act, are licensed under the Industrial Efficiency Act 1936 shall still be subject to licensing under regulations issued under the proposed Act. Existing licensees will retain their licences but the licences will be subject to the new regulations.

*Clause 20* authorises the making of necessary regulations.

*Clause 21* repeals various enactments, particularly the Board of Trade Act 1919 and the Industrial Efficiency Act 1936. Existing Board of Trade regulations will be continued in force under the proposed Act.

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*Hon. Mr Halstead*

## INDUSTRIES AND COMMERCE

### ANALYSIS

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### A BILL INTITULED

**An Act to constitute the Department of Industries and Commerce and to prescribe its functions and powers**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Industries and Commerce Act 1956.

(2) This Act shall come into force on the first day of April,  
10 nineteen hundred and fifty-seven.

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

“Department” means the Department of Industries and Commerce constituted under this Act:

“Minister” means the Minister of Industries and Commerce:

“Secretary” means the Secretary of Industries and Commerce appointed under this Act.

“Tariff” means the scale of Customs duties for the time being in force under the Customs Act 1913. 5

**3. Department of Industries and Commerce**—There shall be a Department of State to be called the Department of Industries and Commerce, which shall be the same Department as that existing under the same name at the commencement of this Act. 10

**4. Secretary of Industries and Commerce**—There shall from time to time be appointed under the Public Service Act 1912 a Secretary of Industries and Commerce who shall be the administrative head of the Department. 15

**5. Appointment of other officers and employees**—There shall from time to time be appointed under the Public Service Act 1912 such other officers and employees of the Department as may be necessary.

**6. Existing appointments deemed to be made under this Act**—(1) The person holding office at the commencement of this Act as Secretary of Industries and Commerce shall be deemed to have been appointed to that office as aforesaid under this Act. 20

(2) All other persons who at the commencement of this Act are officers or employees of the Department and have been so appointed under the Public Service Act 1912 shall be deemed to have been so appointed under this Act. 25

**7. Functions of Department**—The principal functions of the Department shall be, under the control of the Minister, and with a view to fostering the economic welfare of New Zealand— 30

- (a) To promote and encourage the improvement and development of industry and commerce;
- (b) To promote and encourage the export trade of New Zealand; and 35
- (c) To carry out such functions and duties as the Minister may from time to time direct.

**8. General duties of Department—**(1) The Department may exercise all such powers as are reasonably necessary for the effective performance of its functions and duties.

(2) Without limiting the general provisions of subsection 5 *one* of this section, it is hereby declared that the Department may—

- (a) Make inquiries, investigations, and surveys for the purpose of obtaining information of use to the Department in the exercise of its functions:
- 10 (b) Ensure or facilitate the supply and proper distribution of raw materials or goods, or the provision of services, which the Minister considers necessary in the public interest:
- 15 (c) Facilitate the efficient marketing of raw materials and goods produced in New Zealand:
- (d) Establish and maintain an overseas trade service:
- (e) Participate in negotiations and conferences relating to trade or commerce between New Zealand and other countries:
- 20 (f) Collaborate with the Customs Department in respect of any matter concerning the effect of the Tariff on industry or commerce in New Zealand:
- (g) Collaborate with appropriate Departments in respect of any matter relating to the regulation and control, pursuant to any enactment, of imports or exports:
- 25 (h) Collaborate with any research or other organisation for the purpose of promoting or encouraging the improvement of industry or commerce:
- 30 (i) Promote or encourage the location of industries in those localities most economically suitable for the purpose.

**9. Minister may enter into contracts of charterparty—**

(1) The Minister may from time to time, on behalf of Her Majesty the Queen, enter into any contract of charterparty, for such period of hire and upon such terms and conditions as the Minister thinks fit, for the hire of any ship for the carriage of goods and passengers, or of goods only, or of passengers only.

(2) The Minister may from time to time exercise on behalf of Her Majesty all Her Majesty's rights and powers under any such contract (whether entered into before or after the passing of this Act).

**10. Delegation of powers by Minister—**(1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him by this Act, but not including the power to delegate under this section or the power to consent to a delegation under section *thirteen* of this Act. 5

(2) Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him as aforesaid 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. 10

(3) Where the Secretary purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary. 15

(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(5) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the person for the time being directed under the Public Service Act 1912 to act in the place of the Secretary. 20 25 30

**11. Delegation of powers by Secretary—**(1) The Secretary may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of the powers exercisable by him under this Act including any powers delegated to him under this Act, but not including this present power of delegation: 35

Provided that the Secretary shall not delegate any power delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the Public Service Act 1912 without the written consent of the

5 Public Service Commission.

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

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence  
15 of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

20 (5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the  
25 Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

**12. Advisory and technical committees**—The Minister may from time to time appoint advisory or technical committees,  
30 and define the functions and powers of any such committee.

**13. Committees of Inquiry**—(1) The Minister may from time to time appoint a Committee of Inquiry, consisting of one or more persons, for the purpose of investigating and reporting to the Minister on any matters relating to industry  
35 or commerce and of obtaining any information which may be required for the exercise of his powers and functions under this Act.

(2) For the purposes of any investigation made by a Committee of Inquiry the Committee, or any member thereof authorised in writing in that behalf by the Minister, may by order in writing, require any person carrying on any business relating to or affecting the subject matter of the investigation to produce for the inspection of the Committee any papers, books, or documents which are in the possession of that person, or to set down in writing any facts relating to the subject-matter of the investigation which are within the knowledge of that person, or to allow copies of or extracts from any such papers, books, or documents to be made by or on behalf of the Committee.

(3) Any person who fails to comply with any order made under subsection *two* of this section or who deceives or obstructs or attempts to deceive or obstruct the Committee of Inquiry or any member thereof authorised as aforesaid in the conduct of any such investigation commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds.

(4) Any Committee of Inquiry shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this Act, the provisions of that Act shall apply accordingly.

(5) All information obtained by any Committee of Inquiry and transmitted to the Minister or the Department shall be treated as confidential except for the purposes of this Act and subject to the right of publication conferred on the Minister by section *fifteen* of this Act.

**14. Fees and travelling allowances**—There shall be paid out of money appropriated by Parliament for the purpose to the members of any advisory or technical committee or any Committee of Inquiry appointed under this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such committee were a statutory Board within the meaning of that Act.

**15. Publication of information**—So far as any such publication is deemed by the Minister to be expedient in the public interest, it shall be lawful for the Minister from time to time to publish, in such manner and subject to such conditions as he thinks fit, any information obtained by him under this Act and



any report, findings, recommendations, or comments made with respect thereto by the Minister, the Department, or any Committee of Inquiry.

5     **16. Publication absolutely privileged**—The publication of any such matter by the Minister and the republication by any person of any matter published by the Minister under this Act or of any part of any such matter shall, if published or republished in accordance with any conditions imposed by the Minister, be absolutely privileged, and any matter so published  
10 or republished shall be a lawful subject of comment within the meaning of the law of defamation, and no action shall be brought by any person for the publication or republication of any such matter, whether on the ground of defamation or otherwise.

15     **17. Powers conferred by this Act not to affect powers conferred by other enactments**—The powers conferred on the Minister or the Secretary or any other person by this Act are in addition to and not in derogation of any powers conferred by any other enactment and nothing in this Act shall be  
20 construed to limit or affect the powers conferred on any person or authority by any other enactment.

**18. Annual report**—(1) The Secretary shall as soon as practicable after the end of each financial year furnish to the Minister a report on the operations of the Department for that  
25 year.

(2) A copy of the report shall be laid before Parliament within twenty-eight days after it has been furnished to the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the  
30 commencement of the next ensuing session.

**19. Continuation of licensing of certain industries**—(1) No industry in respect of which a notice under section fourteen of the Industrial Efficiency Act 1936 was in force immediately before the commencement of this Act shall be carried on  
35 except pursuant to and in conformity with a licence issued in accordance with regulations made under this Act:

Provided that any person who, immediately before the commencement of this Act, was the holder of a licence issued under Part III of the Industrial Efficiency Act 1936 in respect  
40 of any business shall be deemed to be the holder of a licence under this Act in respect of the same business.

(2) Any licence to which the proviso to subsection *one* of this section applies may be revoked in accordance with regulations made under this Act and, except as otherwise provided by this section, the provisions of any such regulations shall apply to any such licence. 5

(3) The Minister may at any time by notice in the *Gazette* declare that any industry to which subsection *one* of this section applies shall be no longer subject to this section and, on the coming into force of any such notice, the provisions of this section shall cease to apply to the industry to which the notice relates. 10

**20. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof. 15

(2) Without limiting the general power to make regulations conferred by subsection *one* of this section, it is hereby declared that regulations may be made under that subsection for all or any of the following purposes: 20

(a) Providing for the licensing under this Act of those industries which, immediately before the commencement of this Act, were licensed under the Industrial Efficiency Act 1936, and the terms and conditions subject to which licences under the regulations may be issued, transferred, or revoked: 25

(b) Providing for the application of any money in any Industry Account established under the Industrial Efficiency Act 1936:

(c) Prescribing fines for offences against the regulations not exceeding one thousand pounds. 30

(3) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 35

**21. Repeals and savings**—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) Without limiting the provision of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or 40

anything whatsoever done under the provisions so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under

5 this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(3) All regulations made under the Board of Trade Act

10 1919 and in force immediately before the commencement of this Act shall continue and have effect, and may be amended, as if they had been made under this Act and as if the power to make the said regulations were contained in this Act and the repeal of any enactment by this section shall not affect the

15 validity of any of the said regulations or of any amendment thereof.

### SCHEDULE

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Section 21 (1)

ENACTMENTS REPEALED

- 1919, No. 15—  
The Board of Trade Act 1919. (1931 Reprint, Vol. VIII, p. 629.)
- 1923, No. 34—  
The Board of Trade Amendment Act 1923. (1931 Reprint, Vol. VIII, p. 640.)
- 1924, No. 64—  
The Finance Act 1924: Section 27. (1931 Reprint, Vol. VIII, p. 642.)
- 1930, No. 40—  
The Finance Act 1930 (No. 2): Section 30. (1931 Reprint, Vol. VIII, p. 643.)
- 1936, No. 40—  
The Industrial Efficiency Act 1936.
- 1936, No. 58—  
The Statutes Amendment Act 1936: Section 14.
- 1940, No. 18—  
The Statutes Amendment Act 1940: Sections 20 to 23.
- 1942, No. 18—  
The Statutes Amendment Act 1942: Sections 9 to 13.
- 1943, No. 15—  
The Finance Act (No. 3) 1943: Section 12.
- 1944, No. 7—  
The Finance Act (No. 2) 1944: Section 10.
- 1944, No. 25—  
The Statutes Amendment Act 1944: Section 36.
- 1947, No. 45—  
The Finance Act (No. 2) 1947: Section 2.
- 1949, No. 51—  
The Statutes Amendment Act 1949: Section 4.
- 1950, No. 85—  
The Board of Trade Act 1950: Subsection (2) of section 11.
- 1951, No. 79—  
The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Bureau of Industry and so much of the Second Schedule as relates to the Industrial Efficiency Act 1936.
- 1952, No. 12—  
The Scientific and Industrial Research Act 1952: Subsection (2) of section 11.
- 1953, No. 73—  
The Public Revenues Act 1953: Paragraph (b) of section 72.
- 1954, No. 81—  
The Pharmacy Amendment Act 1954: Section 17.