

REGULATION OF TRADE AND COMMERCE.

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A BILL INTITULED

AN ACT to make Provision for the Regulation of Trade and Commerce in Time of War. Title.

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

1. This Act may be cited as the Regulation of Trade and Commerce Act, 1914. Short Title.

Prices of Goods in Time of War.

10 2. (1.) At any time when His Majesty is at war with any foreign prince or State the Governor may from time to time, by Order in Council gazetted, fix and determine the maximum price in New Zealand of any class of goods, and may from time to time in like manner revoke any such Order in Council or vary any maximum price so fixed and determined. Governor in Council may in time of war fix maximum price of goods.

(2.) Every such Order in Council shall cease to be in force so soon as His Majesty is at peace with all foreign States and princes.

15 3. Any such Order in Council may fix and determine different maximum prices of the same classes of goods in respect of different forms, modes, conditions, or localities of trade, commerce, sale, or supply. Different maximum prices for same classes of goods.

Modes of fixing maximum prices.

4. The maximum price of any goods may be fixed and determined under this Act either—

- (a.) As a specified sum ; or
- (b.) By reference to the standard price (as hereinafter defined) of such goods.

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Maximum price not to be less than standard price.

5. When fixed and determined as a specified sum, the maximum price shall not be less than the standard price, but in this respect every Order in Council made under this Act shall in all Courts and in all proceedings be conclusive of its own validity.

Maximum price fixed by reference to standard price.

6. When fixed and determined by reference to the standard price, the maximum price shall be declared to be either the standard price itself or the standard price with such addition by way of percentage or otherwise as the Governor in Council thinks fit.

Standard price defined.

7. The "standard price" of any goods means the current price at which goods of the same nature and quality were saleable in the same locality on the first day of August, nineteen hundred and fourteen, if sold in the same quantity and on the same terms as to payment, delivery, and otherwise.

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Selling goods in excess of maximum price an offence.

8. So long as any such Order in Council remains in force any person who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any goods for a price in excess of the maximum price so fixed and determined, commits an offence against this Act.

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Demanding price in excess of maximum an offence.

9. Any person who, whether as principal or agent, and whether by himself or his agent, while any such Order in Council remains in force, sells any goods for which a maximum price has been fixed and determined under this Act and thereafter demands for the goods so sold by him a price in excess of the said maximum price commits an offence against this Act.

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Exception in case of goods sold for export.

10. Nothing in this Act relative to maximum prices shall extend or apply to the sale of goods which are destined by the purchaser, or believed by the seller on reasonable grounds to be so destined, for exportation and not for consumption or use in New Zealand.

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False representation as to export of goods an offence.

11. Every person who in purchasing or attempting or offering to purchase goods the maximum price of which has been fixed and determined under this Act, falsely represents to the seller or to any other person that the goods are destined for exportation or that they are not destined for exportation shall be guilty of an offence against this Act.

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Aiding and abetting offences against this Act.

12. Every person who aids, abets, counsels, or procures or is in any way knowingly concerned in the commission of an offence against this Act shall be deemed to have committed that offence.

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Liability of employers and principals.

13. The liability of an employer or principal to penalties under this Act for offences committed by his servant or agent in the course of his employment shall be determined by the same principles as those which determine his liability for civil injuries done by that servant or agent, and such offences shall be deemed to have been committed by the employer or principal accordingly.

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Penalties.

14. (1.) Every person who commits an offence against the foregoing provisions of this Act shall be liable to a penalty of *five hundred* pounds.

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(2.) If two or more persons are responsible for the same offence, each of those persons shall be severally liable to a penalty of *five hundred* pounds, and the liability of each of them shall be independent of the liability of the others.

15. Every such penalty shall constitute a debt due by the offender to His Majesty the King, and shall be recoverable, together with costs of suit, by a civil action in the Supreme Court instituted by the Attorney-General for and in the name of His Majesty. Penalties recoverable by action at suit of His Majesty.
- 5 16. In any such action the Court may remit such part of the aforesaid penalty of *five hundred* pounds as it thinks fit, and may give judgment for the residue of the penalty only. Remission of penalties.
17. In any such action the Supreme Court may, in addition to the said penalty, grant an injunction against the continuance or repetition of the offence. Injunctions.
- 10 18. (1.) In any such action several persons may be joined as defendants, whether in respect of the same or of different offences, and whether those offences are committed by the same or by different parties, and in any such case separate judgments may be given in respect of each of the defendants so joined. Joinder of causes of action.
- 15 (2.) In the case of any such joinder of parties the Court may give such direction as it thinks fit for the separate trial of any cause of action against any defendant.
- 20 19. In any action for the recovery of a penalty or for an injunction under the foregoing provisions of this Act the Supreme Court may, in proof of any fact in issue, admit and accept as sufficient such evidence as it thinks fit, whether such evidence is legally admissible in other proceedings or not. Evidence.
- 25 20. In any action for the recovery of a penalty or for an injunction under the foregoing provisions of this Act no person, whether a party to the action or not, shall be excused from answering any question put to him by interrogatory or otherwise, or from producing or making discovery of any document, on the ground that the answer to the question or the production or discovery of the document would tend to criminate him in respect of any offence against this Act. Answers to incriminating questions.
- 30 21. (1.) Every contract of sale made by a seller or his agent in wilful breach of the foregoing provisions of this Act shall be wholly void as against the buyer, and the seller shall have no right of action either for the recovery of the price or value of the goods or for damages for breach of the contract, but the property in the goods so sold shall pass to the buyer at the same time and in the same manner as if the contract had been of full force and effect. Contracts in breach of this Act to be null and void.
- 35 (2.) All moneys paid by the buyer to the seller as the price of goods under any contract which is void under this section shall be recoverable by the buyer from the seller as money had and received by the seller for the buyer's use.
- 40 22. If after any contract of sale has been made, the seller, by himself or his agent, wilfully demands from the buyer any sum as the price of the goods in excess of the maximum price of those goods at the time of the contract of sale, the seller shall be deemed to have sold the goods at the price so demanded, and the contract shall be void as against the buyer, and all the provisions of the *last preceding* section shall apply accordingly. Demand of excessive price to invalidate contract.
- 45 23. (1.) In this Act the term "price" includes every valuable consideration whatsoever, whether direct or indirect. Definitions.
- 50 (2.) Indirect consideration includes every valuable consideration whatsoever which in effect relates to the sale of goods of which the

maximum price is fixed and determined under this Act, although ostensibly relating to any other matter or thing.

(3.) Sale includes barter and every other disposition of goods for valuable consideration.

Prohibition of Exportation.

Section 47 of
Customs Act, 1913,
extended.

24. (1.) At all times while His Majesty is at war with any foreign prince or State the powers of the Governor by Order in Council under section forty-seven of the Customs Act, 1913, to prohibit the exportation of goods shall extend to any goods the prohibition of the exportation of which is in the opinion of the Governor necessary in the public interest, and all the provisions of that section and of the said Act shall apply accordingly. 10

(2.) Any Order in Council made under the authority of this section shall cease to be in force so soon as His Majesty is at peace with all foreign States and princes. 15

Suspension of Awards and Statutory Provisions.

Governor in Council
may suspend industrial
awards and
agreements and the
provisions of certain
Acts in time of war.

25. (1.) At any time while His Majesty is at war with any foreign prince or State, the Governor may from time to time, by Order in Council, if satisfied that such a course is necessary in the public interest, suspend wholly or partially, and subject to such conditions as he thinks fit— 20

- (a.) All or any of the provisions of any industrial award or industrial agreement under the Industrial Conciliation and Arbitration Act, 1908, and its amendments :
- (b.) All or any of the provisions of the Shops and Offices Act, 1908, and the Factories Act, 1908, and their amendments :
- (c.) All or any of the provisions of any other Act so far as such provisions take away or restrict the liberty of private contract in matters of trade, commerce, business, or employment. 30

(2.) So long as any such suspension remains in operation the provisions so suspended shall, so far as so suspended, be of no force or effect.

(3.) Every such suspension may at any time be removed by the Governor in Council, and shall in all cases cease and determine so soon as His Majesty is at peace with all foreign States and princes. 35

Compulsory Requisitions in Time of War.

In time of war goods
may be seized for
the use of His
Majesty.

26. At any time when His Majesty is at war with any foreign prince or State, it shall be lawful for the Governor, whenever he deems it necessary in the public interest so to do, by Warrant under his hand, to authorize and direct any person to whom the Warrant is addressed to seize and take possession on behalf and for the use of His Majesty of any goods or class of goods specified or described in the Warrant. 40

Execution of
warrants of seizure.

27. On the issue of any such Warrant it shall at any time while a state of war exists as aforesaid be lawful for the person to whom the Warrant is addressed by himself or by any other person or persons employed by him in that behalf to act in pursuance thereof, and for that purpose to enter into or upon any land, building, or vessel in or upon which such goods may be or be supposed to be, and in so doing to use such force, if any, as may be necessary in that behalf. 45 50

28. Any person who in any manner resists or obstructs any person acting in pursuance of such Warrant shall be guilty of an indictable offence, and may be arrested without warrant by any constable or by any officer of the Defence Forces, and shall be liable to imprisonment with or without hard labour for any period not exceeding two years or to a fine not exceeding five hundred pounds.

Resistance to seizure an indictable offence.

29. All goods seized under any such warrant shall thereupon become the property of His Majesty, free and discharged from all right, title, estate, or interest possessed in respect thereof by any other person.

Goods seized to become the property of His Majesty.

30. All goods so seized may be disposed of by the Governor in such manner as he thinks fit, either for the purpose of the military, naval, or public service, or for sale to the public.

Disposition of goods seized.

31. Full compensation shall be payable by His Majesty to the owners of all goods so seized, and to all other persons possessing any right, title, estate, or interest in such goods.

Compensation for goods seized.

32. Such compensation shall be payable by the Minister of Finance out of the Consolidated Fund without further appropriation than this Act.

Compensation payable out of Consolidated Fund.

33. (1.) Such compensation shall constitute a debt due by His Majesty to the persons entitled thereto and shall be recoverable by petition of right under the Crown Suits Act, 1908, accordingly.

Compensation recoverable as a debt due by the Crown.

(2.) Notwithstanding anything to the contrary in the Crown Suits Act, 1908, or in any other Act, the Governor may, by Order in Council, make regulations prescribing and modifying, in such manner as he thinks fit, the procedure in claims for such compensation under the said Act.

Commissions of Inquiry.

34. (1.) At any time while His Majesty is at war with any foreign prince or State the Governor may appoint any person or persons to be a Commission to inquire into and report upon any or all of the following matters:—

Appointment of Commissions of Inquiry.

- (a.) The state of the prices of goods in New Zealand or elsewhere, whether before or after the outbreak of war:
- (b.) The quantity, situation, demand, supply, or possession of any goods in New Zealand:
- (c.) The means or sufficiency of the supply or transport of goods:
- (d.) The necessity or advisability of the exercise by the Governor or the Governor in Council of any of the powers conferred by this Act.

(2.) Every Commission so appointed shall be deemed to have been appointed under and in pursuance of the Commissions of Inquiry Act, 1908, and all the provisions of that Act shall apply accordingly.

Illegal Trading with the Enemy.

35. (1.) At any time while His Majesty is at war with any foreign prince or State it shall be unlawful for any person resident, carrying on business, or being in New Zealand to do any of the following acts or things, save so far as the same are or may be expressly permitted by any Proclamation now made or hereafter to be made by His Majesty or by His Majesty in Council and notified in New Zealand by the publication of the contents or purport thereof in the *New Zealand Gazette*, that is to say:—

Trading with the enemy prohibited.

- (a.) To supply to or obtain from the territory of such foreign prince or State so at war with His Majesty any goods, wares, or merchandise :
- (b.) To supply to or obtain from any person resident, carrying on business, or being in that territory any goods, wares, or merchandise : 5
- (c.) To supply to or obtain from any person any goods, wares, or merchandise for or by way of transmission to or from the said territory or to or from any person resident, carrying on business, or being therein : 10
- (d.) To trade in or carry any goods, wares, or merchandise destined for or coming from the said territory or for or from any person resident, carrying on business, or being therein :
- (e.) To permit any British ship to leave for, enter, or communicate with any port or place in the said territory : 15
- (f.) To make or enter into any marine, life, fire, or other policy or contract of insurance with or for the benefit of any person resident, carrying on business, or being in the said territory, or to make under any policy or contract of insurance, entered into before the outbreak of war, any payment to or for the benefit of any such person in respect of any loss due to the belligerent action of His Majesty's Forces or of those of any ally of His Majesty : 20
- (g.) To enter into any commercial, financial, or other contract or obligation with or for the benefit of any person resident, carrying on business, or being in the said territory. 25
- (2.) Every person who in New Zealand does or attempts to do any act or thing in breach of this section, or aids, abets, counsels, procures, incites, or conspires with any other person (whether in or out of New Zealand) to do any such act or thing (whether in or out of New Zealand), shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for a term not exceeding *five* years or to a fine not exceeding *one thousand* pounds or both to such imprisonment and to such fine. Any body corporate so offending shall be liable on indictment to a fine not exceeding *five thousand* pounds. 35
- (3.) Nothing in this section shall be so construed or shall so operate as in any manner to take away, limit, or affect the liability of any person for any act which by the law as heretofore established amounts to treason. 40

Miscellaneous.

Definition of the term "goods."

36. In this Act the term "goods" means all goods, wares, or merchandise of any description, and includes horses, live-stock, and other animals, and all conveyances and other means of transport other than ships, but does not include coin, bullion, bank-notes, or other valuable securities. 45

Judicial notice of war and peace.

37. All Courts shall take judicial notice of the existence or termination of a state of war between His Majesty and any foreign prince or State.

Duration of Act.

38. This Act shall continue in force until the thirty-first day of December, nineteen hundred and *fifteen*, and no longer. 50