

Serial Number 1939/275.



THE CONTROL OF PRICES EMERGENCY REGULATIONS 1939.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 20th day of
December, 1939.

Present :

THE HON. W. NASH PRESIDING IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Control of Prices Emergency Regulations 1939.

DEFINITIONS.

2. In these regulations, unless the context otherwise requires,—

- “ Minister ” means the Minister of Industries and Commerce :
- “ 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 “ indirect consideration ” includes every valuable consideration whatsoever 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 :
- “ Price-order ” means a price-order made pursuant to these regulations :
- “ 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 such wholesaler :
- “ Sale ” includes barter and every other disposition for valuable consideration :
- “ Tribunal ” means the Price Tribunal constituted by these regulations :
- “ Wholesaler,” in relation to the sale of any goods, means a person who sells such goods to any person for the purpose of resale.

PRICE TRIBUNAL.

3. (1) There is hereby constituted a special Tribunal, to be known as "the Price Tribunal."

(2) The Tribunal shall consist of two or more persons to be appointed in that behalf by the Governor-General on the recommendation of the Minister.

(3) One of the members of the Tribunal shall be appointed as the President.

(4) Except as provided in the next succeeding clause, the members of the Tribunal shall hold office during the pleasure of the Governor-General.

4. (1) The persons appointed on the 2nd day of June, 1939, as members of the Advisory Board constituted under the Board of Trade Amendment Act, 1923, shall, while they continue in office as members of the said Advisory Board, be deemed, without further appointment, to have been appointed as members of the Tribunal under these regulations.

(2) The member of the said Advisory Board, being a Judge of the Court of Arbitration, shall be deemed to have been appointed the President of the Tribunal.

5. (1) If for any reason any member of the Tribunal is unable to act as such, or if on any occasion it is inexpedient that any member of the Tribunal should act as such, any person appointed in that behalf by the Minister, by writing under his hand, may act as a member of the Tribunal.

(2) Any appointment under this clause may be for a particular occasion or may authorize the person appointed to act as a member of the Tribunal whenever the occasion for his so doing arises.

(3) The fact that any person who has been duly appointed by the Minister to act as a member of the Tribunal acts as such shall be conclusive evidence of his authority so to do.

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

7. If and when the Tribunal consists of two members both members shall be present at every sitting of the Tribunal, and both members shall concur in every decision of the Tribunal.

8. (1) If and when the Tribunal consists of more than two members at least two members shall be present at every sitting of the Tribunal. At every such sitting the President, if present, shall preside. In the absence of the President, the Minister shall nominate a member to preside.

(2) If at any such sitting two members only are present both 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 on any question the presiding member shall have a casting vote as well as a deliberative vote.

9. Unless in any case the Tribunal otherwise decides, every sitting of the Tribunal shall be held in private.

10. Except as hereinbefore provided, the Tribunal shall determine its own procedure.

11. References in any regulations heretofore made to the Price Investigation Tribunal shall hereafter be read as references to the Tribunal constituted under these regulations.

REMUNERATION AND ALLOWANCES OF MEMBERS OF TRIBUNAL.

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

(2) Members of the Tribunal may also be paid any expenses for locomotion, board, or lodging reasonably incurred by them in respect of their attendance at meetings of the Tribunal or when travelling with the authority of the Minister on the business of the Tribunal.

POWERS AND FUNCTIONS OF TRIBUNAL.

13. (1) The general functions of the Tribunal shall be—

- (a) 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 charged for any goods or services :
- (b) To issue price-orders in accordance with these regulations :
- (c) To exercise any other powers or functions that may be conferred on it by these regulations or otherwise :
- (d) Generally to maintain a survey of the prices charged for 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.

(2) Nothing in these regulations shall be construed to deprive any person or authority of any powers or functions that he or it may have under or pursuant to any Act in respect of any of the matters referred to in the last preceding subclause.

(3) The power conferred on the Minister by clause 11 of the Price Stabilization Emergency Regulations 1939 may hereafter be exercised by the Minister or by the Tribunal, and the references to the Minister in the said clause and in the proviso to clause 10 of the said regulations shall hereafter be read as including references to the Tribunal.

14. (1) In the exercise of its functions under these regulations the Tribunal may hold such inquiries or may conduct such investigations as it thinks fit.

(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 the inquiry.

(3) In addition to the powers conferred by the last preceding subclause, the Tribunal may for the purposes of any inquiry or investigation conducted by it require any person, firm, or body corporate to answer in writing, within such time and in such form as the Tribunal thinks fit, any questions relative to the subject-matter of the inquiry or investigation, or to produce for the inspection of any

person nominated in that behalf by the Tribunal any books or documents in the possession or control of that person, firm, or body corporate, and to allow copies of or extracts from such books or documents to be made by the person so inspecting them.

(4) The Tribunal may, if it thinks fit, require that any written answers given to any questions of the Tribunal shall be verified by statutory declaration.

15. 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 supposed to be used for the storage of goods intended for sale, and may inspect and take records of any stocks of goods found thereon or therein, and may, on payment or tender of a reasonable price, take samples of any such goods.

16. No information that is laid after the commencement of these regulations for an offence against section 32 of the Board of Trade Act, 1919, or against the Prevention of Profiteering Act, 1936, or against the Board of Trade (Price-investigation) Regulations 1939, or the Price Stabilization Emergency Regulations 1939, or against these regulations shall be heard or determined in any Court unless the subject-matter of the information has been investigated by the Tribunal either before or after the laying of the information and a certificate of the findings of the Tribunal, given under its seal, has been produced to the Court.

PRICE-ORDERS.

17. (1) The Tribunal may from time to time, with the authority of the Minister, make orders (herein referred to as price-orders) fixing the wholesale or retail price of any goods therein specified, or fixing margins within which any such goods may be bought or sold. Such margins may be fixed as maximum prices and minimum prices, or may be fixed by reference to the amounts or percentages by which selling-prices may exceed prices to be specified in the order and described therein as prevailing prices or standard prices, or may be fixed in any other manner that the Tribunal in any case regards as adequate in the circumstances.

(2) Any price-order made in respect of any goods may fix different prices or margins in respect of different forms, modes, conditions, or localities of the sale or supply of such goods, and in particular may fix different prices or margins in respect of the following classes of sales, namely :—

- (a) Sales by wholesalers :
- (b) Sales by retailers :
- (c) Sales for delivery within any specified area or locality :
- (d) Sales of different quantities, qualities, grades, or classes of goods :
- (e) Sales to or for the use of different persons or classes of persons, according to the purposes for which such goods are used or intended to be used.

(3) Notice of every price-order made under the authority of these regulations shall be given by the Tribunal in such manner as in the circumstances of the case it thinks fit.

18. Any price-order made under these regulations in respect of any goods the prices of which have been fixed by any competent authority acting under the Board of Trade Act, 1919, or the Motor-spirits (Regulation of Prices) Act, 1933, or the Marketing Act, 1936, or any other enactment shall be read subject to the provisions of such other enactment and to the Order in Council or other instrument by which prices have been fixed thereunder.

OFFENCES AND PENALTIES.

19. (1) Every person commits an offence against these regulations who, 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 as 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.

(2) Every person commits an offence against these regulations who, being required by the Tribunal to answer in writing any question of the Tribunal, refuses or wilfully neglects so to answer such questions within the time and in the form required by the Tribunal, or to verify any such answers by statutory declaration, if so required by the Tribunal.

(3) Every person commits an offence against these regulations who, being required by the Tribunal to produce any books or documents for inspection by any person nominated in that behalf by the Tribunal, refuses or wilfully neglects to produce any such books or documents for inspection, or refuses to allow such person to make any copy of or extract from any such book or document, or obstructs or in any way interferes with such person in the performance of his duties.

(4) Every person commits an offence against these regulations who obstructs or in any way interferes with any member of the Tribunal or with any person authorized in that behalf by the Tribunal in the exercise of the rights of entry and search conferred by clause 15 of these regulations.

20. (1) While a price-order 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 price-order relates for a price that is not in conformity with the price-order commits an offence against these regulations. 5

(2) While a price-order 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 price-order relates and thereafter demands for any such goods a price that is not in conformity with the price-order commits an offence against these regulations.

(3) While a price-order in respect of any goods remains in force every person who, whether as purchaser or seller or otherwise howsoever, is party of any device, plan, or scheme for the purchase or sale of any goods at a price that is not in conformity with the price-order commits an offence against these regulations.

(4) Every person shall, unless and until he proves the contrary, be deemed to have committed an offence under this clause of these regulations who, while a price-order in respect of any goods remains in force,—

- (a) Packs or puts up any such goods in a container of a size smaller than the container ordinarily used by him before the making of the price-order for goods of that kind ; or
- (b) Packs or puts up in a container a quantity of such goods smaller than the quantity ordinarily packed or put up by him in a container of the same size before the making of the price-order ; or
- (c) Alters, to the prejudice of the user, the formula or recipe ordinarily used by him before the making of the price-order in the manufacture or production of any such goods ; or
- (d) Manufactures any such goods of a quality inferior to the quality of similar goods ordinarily manufactured by him or by a predecessor in business before the making of the price-order.

21. Every person who aids, abets, counsels, or procures or is in any way knowingly concerned with the commission of an offence against these regulations shall be deemed to have committed an offence against these regulations.

22. Every person who commits or attempts to commit or does any act with intent to commit any offence against these regulations shall be liable, in the case of an individual, to a fine of £100, and in the case of a company or other corporation to a fine of £500.

23. An information for any offence against these regulations may be laid at any time within three years after the commission of the offence.

RATES OF CHARGES FOR SERVICES.

24. The foregoing provisions of these regulations shall, with the necessary modifications, apply with respect to the rates or fees that may be charged for services (otherwise than pursuant to a contract of service between master and servant) in the same manner as they apply in respect of the prices of goods.

MODIFICATION OF OTHER ENACTMENTS.

25. Where after the commencement of these regulations any person is charged with an offence against section 32 of the Board of Trade Act, 1919, or against the Prevention of Profiteering Act, 1936, or against the Board of Trade (Price-investigation) Regulations 1939, or the Price Stabilization Emergency Regulations 1939, it shall be a good defence if the defendant proves that the act or omission complained of was in conformity with a price-order made under these regulations or was with the consent or approval of the Minister or the Tribunal.

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 21st day of December, 1939.

These regulations are administered by the Department of Industries and Commerce, Tourist and Publicity.