

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*W. S. MOWLE,  
Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 22 December, 1920.*

## **New South Wales.**



ANNO UNDECIMO

GEORGI V REGIS.

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Act No. 41, 1920.

An Act to prevent undue profit-taking ; to provide for the control and acquisition of necessary commodities and the control of necessary services ; to obtain information as to the operations of trusts and other associations ; to prevent unfair methods of trade competition ; to promote co-operative enterprise ; to amend the Acts relating to Industrial Arbitration ; to repeal the Necessary Commodities Control Act, 1919 ; and for purposes consequent thereon or incidental thereto. [Assented to, 31st December, 1920.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*R. J. STUART-ROBERTSON,  
Chairman of Committees of the Legislative Assembly.*

*Profiteering Prevention.*

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Profiteering Prevention Act, 1920," and is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 2-4.

PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—*ss.* 5-9.

PART III.—JURISDICTION—*ss.* 10-24.

PART IV.—PARTICULAR OFFENCES—*ss.* 25-42.

PART V.—PENALTIES AND FORFEITURES—*ss.* 43-53.

PART VI.—SUPPLEMENTARY AND GENERAL—*ss.* 54-71.

## PART I.

## PRELIMINARY.

Application. **2.** This Act shall not apply to the Crown or to any department of His Majesty's Government, or to any shire or municipal council, or to the Municipal Council of Sydney, or to the Railway Commissioners for New South Wales, or to the Metropolitan Board of Water Supply and Sewerage, or to the Hunter District Board of Water Supply and Sewerage, or to any statutory body representing the Crown, or to any undertaking included in Schedule One of the Gas Act, 1912.

Repeal and savings. **3.** (1) The Necessary Commodities Control Act, 1919, is hereby repealed, except as to things done or commenced and offences committed before the passing of this Act, which shall respectively be continued and dealt with under this Act.

(2) All rules, regulations, orders, directions, and notices made or given under the authority of the said Act and in force at the commencement of this Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made or given under the authority of this Act. **4.**

*Profiteering Prevention.*

4. In this Act, except where the context or subject-matter otherwise indicates or requires,—

“Board of Trade” means the “New South Wales Board of Trade” as constituted by the Industrial Arbitration (Amendment) Act, 1918.

“Commissioner” means a Commissioner appointed under this Act.

“Commodity” means necessary commodity.

“Corporation” includes a public company.

“Fixed charge” means the charge fixed and declared by the President to be the maximum charge which may be demanded or received for the supply of any necessary service.

“Fixed price” means the price fixed and declared by the President to be the maximum price which may be demanded or received on the sale of any necessary commodity.

“Fixed rate of profit” means the rate of profit fixed and declared by the President to be the maximum rate of profit which may be demanded or received on the sale of any necessary commodity or the supply of any necessary service.

“Inspector” means an inspector appointed under this Act.

“Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.

“Necessary commodity” means any of the following:—

- (a) coal, firewood, coke, kerosene, petrol, or other fuel;
- (b) any article of food or drink for man or for any domesticated animal;
- (c) any article of clothing or apparel for man, including hats, footwear, and haberdashery;
- (d) any article made of wool, linen, or cotton, or partly of one and partly of another;
- (e) fertilisers;
- (f) any article which enters into or is used in the composition or preparation of any of the foregoing commodities;
- (g) agricultural implements;
- (h)

Interpreta-  
tion.

cf. Necessary  
Commodities  
Control Act,  
1919, s. 5.

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*Profiteering Prevention.*

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- (h) tools of trade ;
- (i) seeds for sowing ;
- (j) any article of furniture ;
- (k) any building material ;
- (l) drugs, proprietary medicines, medical instruments, chemicals, disinfectants, soaps, and toilet requisites ;
- (m) oils ; and
- (n) any commodity which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary commodity ;

(but does not include any prescribed agricultural or pastoral product in the ownership or possession of the grower or producer thereof).

“ Necessary service ” means any of the following :—

- (a) the supply of gas or electricity for lighting, heating, cooking, or industrial purposes ;
- (b) the supply of water for human consumption or for domestic or industrial purposes ;
- (c) the carriage of goods by land or sea ;
- (d) the carriage of persons by ferry ;
- (e) refrigeration and cool storage ;
- (f) the burial of the dead ; and
- (g) any service which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary service.

“ Person ” includes any association or combination of persons, whether incorporated or unincorporated.

“ President ” means President of the Profiteering Prevention Court established by this Act.

“ Prescribed ” means prescribed by this Act or by regulation or proclamation made thereunder.

“ Retail ” shall be deemed to refer to the sale to a person for the purpose of consumption or use ; and “ retail trader ” has a corresponding interpretation.

“ Service ” means necessary service.

“ Specified ”

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*Profiteering Prevention.*

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“Specified” means specified by notice in the Gazette or by notice to a particular person or persons.

“Vessel” includes any ship, lighter, barge, boat, raft, or craft of whatever description and however navigated or propelled.

“Wholesale” shall be deemed to refer to the sale or supply to a person for the purpose of resale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer, or producer to a wholesale or retail trader); and “wholesale trader” has a corresponding interpretation.

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PART II.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

5. (1) For the purpose of administering and enforcing this Act there is hereby constituted a court to be known as the “Profiteering Prevention Court.”

(2) The Governor may appoint a Judge of the Supreme Court, or the Court of Industrial Arbitration, or the District Court to be the Judge of the said Court, and such Judge shall, when exercising his functions under this Act, be styled “President of the Profiteering Prevention Court.”

(3) (a) The Governor may appoint one or more Judges of the Supreme Court, or the Court of Industrial Arbitration, or the District Court as an Additional Judge or as Additional Judges of the Profiteering Prevention Court.

(b) An Additional Judge shall exercise any functions committed to him by the President, which the President may exercise under this Act, and for such purposes shall have the powers of the President under this Act.

(4)

*Profiteering Prevention.*Deputy  
President.

(4) In the event of and during the absence from whatever cause, of the President, the Governor may appoint an Additional Judge to be the Deputy President of the Profiteering Prevention Court and to exercise the functions of the President under this Act.

(5) Judicial notice shall be taken of the signatures of the President, Deputy President, and Additional Judge or Judges of the said Court.

Power to  
appoint a  
barrister or a  
public  
accountant to  
conduct an  
investigation  
or inquiry.

**6.** (1) The President may himself hold any investigation or inquiry under this Act, or the Governor may, upon the recommendation of the President, appoint a barrister or a public accountant of not less than five years standing to whom the President may refer the conduct of any such investigation or inquiry for report to him and may fix the time and place or places for the holding of the same.

(2) For the purposes of such reference such barrister or public accountant when so appointed shall have the powers of the President under this Act, and shall be styled "Commissioner of the Profiteering Prevention Court."

Assessors.

**7.** (1) The President may, or, for the purposes of such reference, such Commissioner may, have associated with him persons (hereinafter referred to as "assessors") possessing special expert or business knowledge:

Provided that there shall not be more than two assessors for each investigation or inquiry.

(2) Every such assessor—

- (a) shall be appointed by the Minister upon the recommendation of the President;
- (b) shall hold office during the period of such investigation or inquiry, unless removed by the Minister upon the recommendation of the President;
- (c) shall be entitled to such remuneration for his services and such travelling allowance as the Minister may from time to time determine; and
- (d) shall sit in an advisory capacity in any matters connected with such investigation or inquiry.

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*Profiteering Prevention.*

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**8.** (1) Such Commissioner shall, upon the completion of such investigation or inquiry, forward to the President, with such recommendations as he may think fit to make, a detailed report of the same together with the oral and documentary evidence received in the course thereof. Any assessor, if he does not agree with such recommendations, may forward to the President a separate report stating his reasons for dissenting therefrom and making such other recommendations as he may think fit.

Report by  
Commissioner  
to President.

(2) The President shall proceed to consider such reports and recommendations, and may, with or without hearing further evidence, act upon the same as if such investigation or inquiry had been held in the first instance by himself.

**9.** The Governor, on the recommendation of the Public Service Board, may appoint a secretary to the President and such other officers as he thinks necessary. Such secretary and other officers shall, subject to the provisions of any award or industrial agreement, receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

Appointment  
of secretary  
and other  
officers.

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PART III.

JURISDICTION.

(1) *Power to investigate and inquire into the operations of trusts, &c.*

**10.** (1) Without prejudice to the generality of his powers under this Act the President may investigate and inquire into the nature, extent, development, and operations of trusts, companies, firms, combinations, agreements, and arrangements connected with mining, manufactures, trade, commerce, finance, carriage, or transport in order to ascertain whether their purpose or effect

Power to  
investigate  
and inquire  
into the  
operations of  
trusts, &c.  
cf. Imperial  
Profiteering  
Act, 1919.

*Profiteering Prevention.*

effect is the regulation of the prices or output of commodities or services produced or supplied in New South Wales or imported into New South Wales, or the delimitation of markets in respect thereof, or the regulation of transport rates and services in so far as they tend to the creation of monopolies or to the restraint of trade, or to the abuse of a power to control trade; and the President shall for the purposes of this section utilize the powers of investigation or inquiry conferred upon him by this Act.

(2) This section shall operate and have full force and effect whether or not maximum prices, rates of profit, or charges have been fixed under this Act.

(3) The President shall from time to time forward to the Governor a report embodying any information acquired by him under the provisions of this section, and any recommendations based thereon which he may think fit to make.

(2) *Power to prevent cornering and unfair methods of trade competition and discrimination.*

Cornering and restrictions on circulation of commodities.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 18.

Unfair methods of trade competition and discrimination.

**11.** Any person who buys up any necessary commodity and stores or retains it in his possession or under his control, whether the maximum price thereof or maximum rate of profit thereon has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein, shall be guilty of an offence against this Act, and such commodity shall be liable to forfeiture as hereinafter provided.

**12.** (1) If the President has reason to believe—

- (a) that any person is using any unfair method of competition or discrimination in trade in any necessary commodity; and
- (b) that a proceeding by him in respect thereof will be to the interest of the public,

he may serve upon such person a complaint stating his charges in that respect, and calling upon such person to show cause why he should not be ordered to cease from using such unfair method. Such complaint shall fix a hearing for a day not less than thirty days after the service of such complaint.

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*Profiteering Prevention.*

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(2) Such person shall be entitled on the hearing to show cause why an order should not be made by the President requiring him to cease from using the unfair method charged in such complaint.

(3) Any other person may apply, and on good cause shown may be allowed by the President, to intervene and appear on such hearing.

(4) If upon such hearing the President is satisfied that the method so charged is unfair, he shall make a report in writing in which he shall state his findings as to the facts, and shall cause to be served on such person an order requiring him to cease within a specified time from using such unfair method.

(5) If such person fails to obey such order he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds (and to a further penalty not exceeding fifty pounds for every day after the first during which such failure continues) or to imprisonment for a term not exceeding six months. If the offender be a corporation, such corporation shall be liable to a penalty not exceeding five hundred pounds and to a further penalty not exceeding one hundred pounds for every day after the first during which such failure continues.

(6) Such person may within fourteen days after the day upon which such order is made appeal therefrom to the Supreme Court by filing in such Court a notice of appeal.

(7) Notwithstanding the filing of such notice of appeal such order shall continue to have full force and effect unless the President or the Supreme Court otherwise orders.

(8) Upon the filing of such notice of appeal the Court shall have jurisdiction over the proceeding, and may make a decree or order affirming, varying, or setting aside the order of the President.

(9) The Court may make rules as to proceedings before it under this section.

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*Profiteering Prevention.*


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(3) *Power to promote co-operative enterprise.*

Power of Board of Trade to report to Governor as to promotion of societies for co-operative enterprise.

**13.** (1) In order to encourage the creation of a system of checks by popular action upon the undue raising of prices, profits, or charges in respect of the sale of any necessary commodity or the supply of any necessary service, the Board of Trade may forthwith proceed to acquire knowledge of the principles and practice of co-operative enterprise, and may from time to time, with a view to the reduction of the average cost of living, report to the Governor on and propound schemes for—

- (a) the promotion and control of co-operative enterprise for the wholesale and retail supply of necessary commodities or the supply of necessary services ;
- (b) the constitution of co-operative societies, co-operative banks, and credit unions for such purposes ; and
- (c) the conditions upon which a co-operative society, bank, or union shall carry on business.

(4) *Power to investigate complaints.*

Power to investigate complaints and fix reasonable prices and charges.  
cf. Imperial Profiteering Act, 1919.

**14.** (1) The President may as regards any necessary commodity, or any necessary service, in respect of which no maximum price or rate of profit or charge has been fixed under this Act, receive and investigate complaints that a profit is being or has been, since the commencement of this Act, made or sought on the sale of such commodity, whether wholesale or retail, or on the supply of such service, which is, in view of all the circumstances, unreasonable, and on any such complaint the President may, after giving the parties an opportunity of being heard, either—

- (a) dismiss the complaint ; or
- (b) fix the price or charge which would yield a reasonable profit, and require the seller of the commodity or the person supplying the service to repay to the complainant any amount paid by the complainant in excess of such price or charge.

(2)

*Profiteering Prevention.*

(2) Any seller or person supplying such service who, in such proceeding is proved to have charged or sought a profit which is, in view of all the circumstances, unreasonable shall be guilty of an offence against this Act:

Provided that no proceeding under this section shall be instituted without the leave of the Attorney-General and no such leave shall be granted after the expiration of six weeks from the date of the transaction complained of.

**15.** Where any persons, or associations of persons, appearing to the President to represent a substantial proportion of the persons engaged in the production, manufacture, sale, or distribution of any necessary commodity, or class of necessary commodities, or engaged in the supply of any necessary service, submit to the President a scheme limiting the rate of profit to be allowed on the production, manufacture, sale, or distribution of such commodity or class, at all or any stages of production, manufacture, sale, or distribution, or on the supply of such service, the President may, if he thinks it expedient, approve the scheme; and, where such scheme is so approved, any profit sought or obtained in connection with the manufacture, production, sale or distribution of any commodity, or the supply of any service, to which the scheme relates, which does not exceed such profit as is allowed by or under that scheme, shall not be deemed unreasonable for the purposes of the last preceding section.

Power to approve schemes limiting profits.  
cf. Imperial Profiteering (Amendment) Bill, 1920, s. 1.

(5) *Power to fix maximum prices of, and maximum rates of profit on, commodities.*

**16.** (1) Without limiting the generality of section fifteen the President may, by notice in the Gazette and in prescribed newspapers (if any) from time to time after inquiry—

Power to fix maximum prices, maximum rates of profit, &c.

(a) fix the highest price, wholesale or retail, at which any necessary commodity may be sold or supplied for consumption or use in New South Wales—

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 10.

(i) by fixing such price directly; or

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*Profiteering Prevention.*

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- (ii) by fixing the highest rate of profit (and whether gross profit or not as the President thinks fit) at which any necessary commodity may be sold or supplied or which may be charged or received in respect thereof:
- Provided that a maximum price and also a maximum rate of profit may be fixed with respect to the same necessary commodity;
- (b) fix the delivery charge which may be charged for the delivery of any necessary commodity from the place of business of the trader to places within a specified radius thereof;
- (c) fix different maximum prices or rates of profit according to differences in quality or description, or in the quantity sold or supplied, or according to whether the sale or supply is by wholesale or by retail;
- (d) fix different maximum prices or rates of profit for different parts of New South Wales;
- (e) fix any maximum price or rate of profit relatively to such standards of measurement, weight, capacity or otherwise as he thinks proper;
- (f) fix maximum prices or rates of profit on a sliding scale;
- (g) fix maximum prices or rates of profit varying in accordance with a standard, time, or other circumstance;
- (h) fix maximum prices or rates of profit on a condition or conditions;
- (i) fix maximum prices varying with profits, dividends, or wages and salaries;
- (j) fix maximum prices or rates of profit for cash, delivery, credit, or time-payment, and in either case inclusive or exclusive of the cost of packing;
- (k) fix maximum prices or rates of profit on the basis of manufacturing, landed, delivered or other cost; and declare what items may or may not be included in such cost and whether in determining such cost regard is to be had to the
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*Profiteering Prevention.*

the invoice cost of the materials used or to the cost of replacing the materials used or to any other method or principle specified in the proclamation ;

- (m) fix maximum prices or rates of profit on commodities according to or upon any principle or condition or upon any basis prescribed ; and
- (n) vary or revoke any maximum price or rate of profit previously fixed by him, but so as to apply only to future transactions.

(2) The President may for the purposes of this Act investigate prices, costs, and profits at all stages.

(3) The President shall, in fixing prices or rates of profit under this section, fix such prices or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

- (a) the actual cost to the seller of such commodity ;
- (b) the average cost to the seller of the stock of such commodity in his possession for the purposes of his business ;
- (c) the cost at date of inquiry of wages, commodities, rent, rates, taxes, and any other expenses and contingencies ;
- (d) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes ;
- (e) any fluctuations in trade or in profits ; and
- (f) whether such commodity is produced or manufactured in, or is imported into, the Commonwealth.

(4) The notice mentioned in subsection one shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum price or rate of profit or delivery charge shall take effect.

**17.** (1) The President may by notice as aforesaid declare that the market price of any necessary commodity shall not be increased on or after a date to be fixed by such notice.

Power to prohibit increase in price of necessary commodities.  
of Necessary Commodities Control Act, 1919, s. 12.

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*Profiteering Prevention.*

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(2) The market price of such commodity on such date shall be deemed to be the fixed price therefor, and shall be deemed to have been fixed under the last preceding section.

Power to  
prohibit  
specific  
persons from  
increasing  
prices.  
cf. *Ibid.*, s. 18.

**18.** (1) The President may, by notice delivered to any person, require that such person shall not, on or after a date to be fixed by such notice, increase the price charged by such person for any commodity, or the charge made by him for the supply of any service, specified in such notice, unless such person first obtains the permission in writing of the President.

(2) The price charged by such person for such commodity, or the charge made by him for such service on the date fixed by such notice shall be deemed to be the fixed price or charge which may be demanded or received by such person, and shall be deemed to have been fixed under section seventeen.

(6) *Power to fix maximum charges for, and maximum rates of profit on, necessary services.*

Power to fix  
maximum  
charges and  
rates of profit  
for or on  
necessary  
services.

**19.** (1) The President may by notice in the Gazette and in prescribed newspapers (if any) from time to time fix the maximum charges and rates of profit which shall be made for or on the supply of any necessary service, and in particular, and without limiting the generality of the power hereby conferred—

- (a) may fix different maximum charges and rates of profit according to the nature of the service supplied;
- (b) may fix different maximum charges and rates of profit for different parts of the State;
- (c) may fix any charge or rate of profit relatively to such standards of measurement, weight, capacity, distance, or otherwise as he thinks proper;
- (d) may fix charges or rates of profit on the supply of any service according to or upon any principle or condition prescribed; and
- (e) may from time to time vary or revoke any rate previously fixed by him, but so as to apply only to future transactions. (2)

*Profiteering Prevention.*

(2) The President shall, in fixing charges or rates of profit under this section fix such charges or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

- (a) the expenses of carrying on the business, including rent, rates, taxes, and contingencies;
- (b) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes; and
- (c) any fluctuation in trade or in profits.

(3) Such notice shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum charge shall take effect.

(7) *Power to acquire commodities.*

**20.** (1) The Governor may, upon the recommendation of the President—

- (a) by proclamation published in the Gazette; or
- (b) by notice given to any person or persons,

direct all or any persons who, whether as owners or otherwise, have in their possession or under their control any specified necessary commodity to retain and hold the same, or a specified quantity thereof, for and on behalf of His Majesty.

Power of Governor to acquire a necessary commodity by proclamation or notice.

(2) Upon the publishing of such proclamation or the giving of such notice the title to and property in such commodity or quantity thereof shall be divested from the owners thereof and become vested in His Majesty freed from any charge thereon and from any claim, contractual or otherwise, and the holders or owners of the goods shall thereupon be discharged from any other contractual engagements whatsoever in respect thereof; and the title and property of such owners shall be converted into a right to receive payment of the value of such commodity or quantity thereof as hereinafter provided.

Property of former owner therein to vest in His Majesty.

(3) All such persons, and their agents and servants, shall without delay, obstruction, or objection give immediate and peaceable possession of such commodity or quantity thereof to the Minister or to any person authorised by him to demand and take possession of the same.

Owners, &c., to give possession to Minister.

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*Profiteering Prevention.*

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Authority signed or purporting to be signed by Minister, &c., to be sufficient authority for delivery.

Payment of value of such commodity.

Payment in case of doubt or dispute into office of Master in Equity.

Penalties.

(4) The production of any document or telegram purporting to be a demand or an authority to demand such commodity or quantity thereof, and to be signed or sent by the Minister or his Under Secretary, shall be sufficient authority for the delivery of the commodity or quantity thereof, to which such document or telegram relates.

(5) The owner of such commodity or quantity thereof shall be entitled to be paid therefor by the Minister either—

- (a) at the price or rate of profit fixed by this Act in respect of such commodity; or
- (b) where no price or rate of profit has been so fixed,—
  - (i) at such price as may be mutually agreed upon, or
  - (ii) in default of such agreement, at such price as may be determined by the President after hearing the parties concerned.

(6) In the event of any doubt or dispute arising as to the person legally entitled to receive any moneys payable under this section or as to any charge thereon or claim in respect thereof, the Minister may, in default of agreement between the parties concerned, pay the same into the office of the Master in Equity to abide such order as may be made by the Supreme Court in its equitable jurisdiction.

(7) Any person who, after the publishing of such proclamation or the giving of such notice,—

- (a) attempts to dispose of or in any way deal with such commodity or quantity thereof to the prejudice of His Majesty's rights and powers under this section; or
- (b) refuses to deliver, or delays, or obstructs the delivery as aforesaid of such commodity or quantity thereof,

shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding six months or to both penalty and imprisonment; or, if the offender be a corporation to a penalty not exceeding one thousand pounds.

(8)



*Profiteering Prevention.*

(8) Where any commodity has been acquired under the provisions of this section, the Minister may store, sell, or otherwise dispose of the same to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as he may think fit.

Power of Minister to dispose of any commodity acquired under this section.

(8) *Power to secure sufficient supplies of commodities for home consumption.*

**21.** (1) If the Governor has reason to believe that any necessary commodity is being sent out of New South Wales in such quantities that a sufficient supply thereof will not or may not be available for home consumption at the fixed price, or, if no price has been fixed, at such price as may be determined by the President after hearing the parties concerned, he may by proclamation published in the Gazette make such regulations and orders and give such directions as may be necessary to render available as aforesaid a sufficient supply of such commodity at such price, and to that end may act in conjunction with any other Government or authority.

Power to secure sufficient supplies of commodities for home consumption.

(2) Any person contravening any of the provisions of such proclamation shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding four hundred pounds, or to imprisonment for any term not exceeding twelve months; or, if the offender be a corporation, to a penalty not exceeding one thousand pounds.

(9) *Power to require returns of commodities or services to be furnished.*

**22.** (1) The Governor may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person having, or suspected of having, in his possession or under his control any specified necessary commodity, or being a supplier of any specified necessary service, to furnish to the Governor within the time fixed by such notice, a return in the specified form setting forth to the best of such person's knowledge and ability such particulars as are specified with respect to such commodity or service.

Power of Governor to require returns to be furnished.

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*Profiteering Prevention.*

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(2) Such notice may be either a notice given to such person individually or a notice to such persons generally and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

(3) Such returns shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

(a) fails to comply with any of the requirements of such notice; or

(b) wilfully furnishes any false or misleading return,

shall be guilty of an offence against this Act.

(10) *Power of President to act in conjunction with other bodies.*

Power of President to co-operate with other bodies.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 26.

**23.** The President may, in the exercise of any of his powers and duties under this Act, co-operate with any person or body appointed and acting under any Act of the Commonwealth or of any State having objects similar to the objects of this Act.

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PART IV.

PARTICULAR OFFENCES.

Failure to supply necessary commodity at fixed price.  
cf. Necessary Commodities Control Act, 1919, s. 14.

**24.** (1) Any wholesale or retail trader who has in his possession or under his control any necessary commodity, and who fails—

(a) on demand of any quantity of such commodity; and

(b) on tender of payment at the fixed price or rate of profit for the quantity demanded,

to supply such commodity in such quantity, shall, subject to the provisions of this section, be guilty of an offence against this Act.

(2)

*Profiteering Prevention.*

(2) Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question—

- (a) the defendant supplied a reasonable quantity of such commodity; or
- (b) the defendant was a wholesale trader in such commodity, and the person who demanded to be supplied was not a retail trader therein; or
- (c) there existed special circumstances in the particular case which justified or excused the failure of the defendant to comply with the provisions of this section.

(3) For the purposes of this section the President shall, in determining what is a reasonable quantity, have regard to all the circumstances of the case.

(4) Where a retail trader is prosecuted under this section, the defence that he supplied a reasonable quantity of such commodity shall be sufficiently established by proof that he supplied the person making the demand with a sufficient quantity thereof to meet the reasonable needs for one week—

- (a) of himself and the members of his household; and
- (b) if such commodity is of a kind generally used for animals, of all animals kept by him of the kinds for which such commodity is ordinarily used.

(5) For the purposes of this section, all persons who live with and in the same house as a person shall be deemed to be members of his household; and animals shall be deemed to include birds.

**25.** (1) Any person who (whether as principal or agent or whether by himself or his agent)—

- (a) sells or supplies or offers to sell or supply any necessary commodity at a price higher than the fixed price; or
- (b) charges or takes any sum for delivering any necessary commodity other than such sum (if any) as is fixed as a delivery charge in respect thereof—

Sales at prices higher than fixed price.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 13.

shall

*Profiteering Prevention.*

shall be guilty of an offence against this Act; and in case of sale or supply or of delivery (as the case may be) shall, in addition to any penalty or imprisonment to which he is liable under this Act, be liable to refund to the purchaser the difference between the fixed price and the price at which the commodity was sold or supplied or (as the case may be) to refund to the person to whom delivery is made the difference between the fixed delivery charge and the sum actually charged or taken for delivering the commodity.

Sales at rates  
of profit  
higher than  
fixed rate.  
cf. *Ibid.* s. 14.

(2) Any person who (whether as principal or agent or whether by himself or his agent) sells or supplies or offers to sell or supply any of such commodity for such a price as yields to him a rate of profit which is greater than the fixed rate of profit with respect to such commodity shall be guilty of an offence against this Act, and shall in addition to any penalty or imprisonment to which he is liable under this Act be liable to refund to the purchaser the amount overcharged :

Provided that where a delivery charge is also fixed a sum not exceeding such delivery charge may be added to the selling price.

Invoices, &c.,  
to be prima  
facie evidence  
of sale and of  
price charged.  
cf. Necessary  
Commodities  
Control Act,  
1919, s. 15.

**26.** In any prosecution for an offence under the last preceding section an invoice given or account rendered by the defendant, or by some person with the express or implied authority of the defendant, for the necessary commodity in respect of which the offence is alleged to have been committed, or an offer in writing signed by the defendant or by some person on his behalf, to sell or supply such necessary commodity at a specified price, shall be prima facie evidence of the sale or supply of or offer to sell or supply such necessary commodity, and of the price charged or to be charged therefor.

Speculating  
in necessary  
commodities.

**27.** Any person, not being a bona fide wholesale or retail trader or a bona fide consumer or user, who purchases or agrees to purchase or otherwise acquire (except by way of bona fide security only) any specified necessary commodity or any right or interest therein, shall be guilty of an offence against this Act, and the commodity

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*Profiteering Prevention.*

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commodity so purchased or agreed to be purchased or acquired shall be liable to forfeiture as hereinafter provided :

Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such purchase or agreement had not the object nor the effect of increasing, directly or indirectly, the price of such commodity to the consumer or user.

**28.** (1) Where any proceeding to fix the maximum price of or rate of profit on any necessary commodity, or the maximum charge for or rate of profit on the supply of any necessary service, has been instituted under this Act and is still pending, no person shall increase the price or rate of profit at which he sells such commodity or the charge or rate of profit made by him for the supply of such service, unless he shall first have given the President notice of his intention so to do and obtained permission or shown cause as hereinafter provided.

Increasing  
prices, &c.,  
without  
leave.

(2) Every such notice shall specify—

- (a) the necessary commodity or the necessary service to which it relates ;
- (b) the then current price or rate of profit or charge ;
- (c) the proposed increased price or rate of profit or charge ; and
- (d) such further particulars as may be prescribed.

(3) The President shall, within fourteen days after the receipt of such notice, either—

- (a) notify such person that he permits such increase ; or
- (b) require such person to show cause why such increase should be allowed.

(4) Any person who increases such price or rate of profit or charge without first obtaining such permission or showing cause as aforesaid shall be guilty of an offence against this Act.

**29.**

*Profiteering Prevention.*

Mis-  
representing  
description,  
&c., of  
necessary  
commodities.

**29.** Any person who sells, offers, or exposes for sale, or supplies any necessary commodity knowingly represented by him, expressly or impliedly, to be of a particular description, make, origin, or quality shall, if such commodity is of a different description, make, origin, or quality, be guilty of an offence against this Act.

Supplying  
purchasers  
with articles  
inferior to  
those  
exposed for  
sale.

**30.** Any retail trader who exhibits or otherwise offers for sale any necessary commodity at a price denoted for the same shall on demand supply the purchaser with that commodity or with a similar commodity of equal quality and quantity at the price so denoted, and shall not attempt to substitute an inferior article therefor nor to raise the price above the price so denoted. Any such trader committing a breach of this section shall be guilty of an offence against this Act.

Books to be  
kept by  
traders and  
others.

**31.** (1) Every person who is a producer, manufacturer, distributor, or seller of any specified necessary commodity, or who prepares the same for sale or distribution, and any or every person who supplies any necessary service, shall keep such books of account as will enable the cost of producing, manufacturing, distributing, or selling such commodity, or preparing the same for sale or distribution, and the cost of supplying such service to be ascertained.

(2) Any person who fails to comply with any of the requirements of this section shall be guilty of an offence against this Act.

Lists of  
prices, &c., to  
be exhibited  
by traders.  
&c.

**32.** (1) Every wholesale and retail trader in a necessary commodity and every person supplying a necessary service shall, where a maximum price or charge has been or shall be from time to time fixed, within such time and in such manner as shall be prescribed, exhibit conspicuously on his business premises, and keep so exhibited, a printed list as published in the Gazette showing such fixed price or charge, and the commodity or service in respect of which it has been fixed. Printed lists of such fixed prices or charges shall be made available by the Minister.

(2) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

**33.**

*Profiteering Prevention.*

**33.** Any person who is a supplier of any necessary service and who fails, without reasonable excuse, on tender of the fixed charge to supply such service or who demands or receives for such service a charge or rate of profit higher than the fixed charge or rate of profit, shall be guilty of an offence against this Act.

Excesses charges, &c., by suppliers of necessary services.

of. Necessary Commodities Control Act, 1919, s. 22.

**34.** Any wholesale or retail trader who sells any necessary commodity and any person who supplies any necessary service, and who in either case fails, on demand by the purchaser or recipient of the service, as the case may be, to furnish to such purchaser or recipient a docket receipt or ticket showing clearly—

Right of purchaser, &c., to demand docket or receipt from trader, &c.

(1) the commodity sold or the service supplied and the date of such sale and the supply of such service;

(2) the price paid on the sale of such commodity or the charge paid for such service,

shall be guilty of an offence against this Act.

**35.** Any producer, manufacturer, distributor, or seller, whether wholesale or retail, of any article of food or drink, who (being in the possession of the same for purposes of sale) by himself or by his agent or servant destroys or casts away the same, shall be guilty of an offence against this Act:

Destruction of food or drink.

Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question such destruction or casting away did not raise or tend to raise the price of a similar article to the public.

**36.** Any person who—

(a) gives, confers, or procures, or promises, or offers to give, confer, or procure any property, or benefit of any kind to, upon, or for any person upon any agreement or understanding that any person called, or to be called, as a witness in any proceeding under this Act shall give false testimony or withhold true testimony; or

Bribing of witness.  
of. *Ibid.* s. 24.

(b) by any means induces a person called, or to be called, as a witness in any such proceeding to give false testimony or to withhold true testimony; or

(c)

*Profiteering Prevention.*

(c) asks for, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall, as a witness in any such proceeding, give false testimony or withhold true testimony,

shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Fraud on  
witness.  
cf. *Ibid.* s. 25.

**37.** Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any such proceeding, with intent to affect the testimony of that person as a witness, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Destroying  
books or  
documents.  
cf. *Ibid.* s. 26.

**38.** Any person who, knowing that any book, document, or writing is or may be required in evidence in any such proceeding, wilfully destroys it, or renders it illegible or undecipherable, or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Preventing  
witness from  
attending.  
cf. *Ibid.* s. 27.

**39.** Any person who wilfully prevents any person who has been summoned to attend as a witness in any such proceeding from attending as a witness, or from producing any evidence pursuant to the summons to attend, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Injury to  
witness.  
cf. *Ibid.* s. 28.

**40.** Any person who uses, causes, inflicts, or procures any violence, punishment, loss, or disadvantage to any person for or on account of his having appeared as a witness in any such proceeding, or for or on account of any evidence given by him therein, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

**41.**



*Profiteering Prevention.*

**41.** (1) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of such employee's having appeared as a witness or given evidence in any such proceeding shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Dismissal by employers of witness.  
cf. *Ibid.* s. 29.

(2) In any proceeding for an offence against this section it shall lie upon the employer to prove that any employee shown to have been dismissed from or prejudiced in his employment was so dismissed or prejudiced for some reason other than a reason mentioned in subsection one of this section.

**42.** If any person at or for the purpose of any proceeding under this Act knowingly or recklessly furnishes any information or makes any representation which is false in any material particular he shall be guilty of an offence under this Act and liable on conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both.

Supplying false information, &c., at or for the purpose of any proceeding under this Act.  
cf. Imperial Profiteering Act, 1919, s. 1 (4).

## PART V.

## PENALTIES AND FORFEITURES.

(1) *Penalties.*

**43.** (1) Any person guilty of an offence against this Act shall, except where this Act otherwise provides, be liable—

Penalties, except where otherwise provided.

(a) for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding three months, or, if the offender be a corporation, to a penalty not exceeding two hundred pounds: Provided that the President or magistrate may, if satisfied that such first offence was due to inadvertence, impose a nominal penalty only; and

(b)

*Profiteering Prevention.*

(b) for a second or subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for any term not exceeding six months or to both, or if the offender be a corporation, to a penalty not exceeding five hundred pounds.

(2) Any person charged with a third or subsequent offence against the provisions of sections eleven, fourteen, twenty-four, twenty-five, twenty-seven, or thirty-three, shall be liable to be proceeded against on indictment, and if convicted of such offence, shall be liable to a penalty of not less than fifty nor more than five hundred pounds or to imprisonment for a term of not more than twelve months or to both.

If the offender be a corporation, such corporation shall be liable to be proceeded against before the Supreme Court for the recovery of a penalty not less than one hundred nor more than three thousand pounds; and, in addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

Offence by corporation to be deemed an offence, prima facie, by the chairman, each director and officer.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 24.

**44.** Where a person convicted of any offence against this Act is a corporation the chairman and every managing director and every officer concerned in the management of the corporation shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

Each of two or more persons responsible for same offence to be liable.  
cf. *Ibid.*

**45.** If two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty or imprisonment or both provided by this Act, and the liability of each of them shall be independent of the liability of the others.

Offence by agent, employee, &c.  
cf. *Ibid.*

**46.** Any agent, employee, or other person acting for another who knowingly takes part in or is in any way privy to doing any act or thing without authority which if authorised would be an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

**47.**

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*Profiteering Prevention.*

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**47.** Every person who aids, abets, counsels, procures, or connives at, or by any act or omission is in any way directly or indirectly concerned in or privy to the commission of any offence under this Act shall be deemed to have committed that offence and shall be punishable accordingly.

Aiding and abetting offences against this Act.  
cf. *Ibid.* s. 35.

**48.** (1) Any inspector or member of the police force or party aggrieved may, except where this Act otherwise provides, institute proceedings—

Recovery of penalties, &c.  
cf. Necessary Commodities Control Act, 1919, s. 32.

- (a) in respect of offences committed within the Metropolitan, Newcastle, and Wollongong police districts constituted under Part III of the Justices Act, 1902, before the Chief Industrial Magistrate or his deputy; and
- (b) in respect of offences committed within other police districts before a stipendiary or police magistrate at the court in or nearest to the place where the defendant resides,

for the recovery in a summary way under the Justices Act, 1902, of any penalty, or for the awarding of any imprisonment, imposed by this Act or by any regulation made thereunder.

(2) Any defendant convicted before a magistrate of an offence against this Act may appeal to the President against such conviction, and any inspector, member of the police force, or party aggrieved by any order of a magistrate dismissing any proceeding instituted under this Act may, with the consent of the Minister, appeal to the President against such order.

(3) An appeal against such conviction or order shall be in the nature of a rehearing, and upon such appeal the President may—

- (a) affirm, vary, or set aside such conviction or order; and
- (b) impose any penalty or award any imprisonment authorised in the particular case by this Act.

(4)

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*Profiteering Prevention.*

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(4) The President may make rules for the institution of, and the procedure on, appeals under this section.

Notwithstanding anything contained in this Act the powers of the President under this section shall not be exercisable by an auxiliary judge who is not a barrister or solicitor.

(2) *Forfeitures.*

Forfeiture of  
necessary  
commodities.  
cf. *Ibid.* s. 17.

- 49.** If the President is satisfied that any person—
- (1) is buying up or storing or is retaining in his possession or under his control any necessary commodity in breach of the provisions of section eleven ; or
  - (2) has in his possession or under his control any such commodity, and has failed, on demand and tender of the fixed price, to supply in accordance with the provisions of section twenty-four any particular person or persons with such commodity ; or
  - (3) not being a bona fide wholesale or retail trader or a bona fide consumer or user has purchased or agreed to purchase or acquire any such commodity in breach of the provisions of section twenty-seven,

the President may recommend to the Governor that such commodity be forfeited. The Governor may thereupon by notice in the Gazette order that the whole of such commodity, or such quantity thereof as is specified in such notice, be forfeited to the Crown.

Seizure and  
disposal of  
forfeited  
commodities.  
cf. *Ibid.* s. 18.

**50.** When any necessary commodity has been so forfeited, it shall be lawful for any inspector or any member of the police force or any person thereunto authorised in writing by the Minister—

- (a) to seize any commodity which he has reasonable cause to believe is forfeited under this Act ;
- (b) to store the same in any place provided by the Minister for the purpose ; and
- (c) to sell or otherwise dispose of the same to such persons or bodies and at such times and in such manner and upon such terms and conditions as the Minister may direct, or as may be prescribed.

*Profiteering Prevention.*

**51.** When any necessary commodity is seized under this Act the person who was the owner thereof prior to the forfeiture shall be entitled to be paid therefor by the Minister at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President deems reasonable in the circumstances, after deducting in either case—

Payment to former owner of fixed price, less certain deductions.  
cf. *Ibid.* s. 19.

- (a) the amount of any penalties imposed on such person in any proceedings under this Act, whether in respect of the goods so seized or otherwise, and the amount of any costs awarded against him in such proceedings, or so much of such amounts as have not already been paid; and
- (b) the costs and expenses of any application to the President for a recommendation of forfeiture, whether in respect of the necessary commodity so seized or any other necessary commodity; and
- (c) the costs and expenses of searching for, seizing, storing, and selling or otherwise disposing of such commodity.

**52.** Any inspector or member of the police force or person thereunto authorised in writing by the Minister may at any time in the day or night enter into and search any premises or vessel or part thereof, where any necessary commodity forfeited or liable to seizure under this Act is, or is supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises or vessel or part, and may break open and search any chests, trunks, packages, or other things in which any such commodity is or is supposed to be.

Power to search for necessary commodities.  
cf. *Ibid.* s. 20.

(3) *Compulsory sales in lieu of forfeitures.*

**53.** (1) In any of the cases mentioned in section fifty the President may, in lieu of recommending a forfeiture, by notice require any person, who is the owner of, or has in his possession or under his control any specified necessary commodity, to sell the same, or a specified quantity thereof, within a specified time, and in the manner hereinafter provided.

Power of President, in lieu of recommending the forfeiture of a commodity, to require owner, &c., to sell the same.

(2)

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*Profiteering Prevention.*

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(2) Such sale shall be—

- (a) where such person is a wholesale trader, a bona fide sale direct to a retail trader or traders or to a consumer or consumers; and
- (b) where he is a retail trader, a bona fide sale direct to a consumer or consumers.

(3) Such sale shall be at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President may deem reasonable in the circumstances.

(4) Any person failing to sell as aforesaid shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds for every day after the expiry of the specified time during which such default continues:

Provided that in any prosecution under this section it shall be a sufficient defence to show—

- (a) that the failure to sell was not due to any act or omission on the part of the defendant or of any agent or servant of the defendant; or
- (b) that there existed special circumstances justifying or excusing such failure to sell.

*Profiteering Prevention.*

## PART VI.

## SUPPLEMENTARY AND GENERAL.

**54.** The President shall for the purposes of any investigation, inquiry, or proceeding under this Act have all such powers, rights, and privileges as are vested in the Supreme Court, or in any judge thereof, on the occasion of any action or trial in respect of—

Powers of President for purposes of an inquiry.  
cf. *Ibid.* s. 30.

- (a) the compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration ;
- (b) the compelling the production of books, documents, and writings ;
- (c) the compelling witnesses to answer questions which the President deems to be relevant to the inquiry ;
- (d) the punishing persons guilty of contempt or of disobedience of any order or summons made or issued by the President ; and
- (e) the directing witnesses to be prosecuted for perjury.

**55.** A summons signed by the President may be issued for enforcing the attendance of witnesses or compelling the production of books, documents, and writings. If any person having been served with such summons fails to appear, the President may issue a warrant authorising such person to be apprehended and brought before him.

Summons for attendance of witness or production of documents.  
cf. *Ibid.* s. 31.

**56.** The President in the exercise of any of his powers or duties shall not (except on the hearing of an appeal under section forty-eight of this Act) be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct his proceedings and inform his mind on any matter in such manner as he thinks proper, and without limiting in any way the operation of this section the President may refer any technical matter to an expert and may accept his report as evidence.

Commission not to be bound by rules as to procedure or evidence.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 24.

**57.**

*Profiteering Prevention.*

Statements made by witness not admissible in evidence against him. cf. *Ibid.* s. 27.

**57.** A statement or disclosure made by any witness in answer to any question put to him in any prosecution under this Act shall not (except in a proceeding for an offence against this Act, or in a prosecution for perjury) be admissible in evidence against him in any civil or criminal proceeding in any court.

Power of President to require production of books, &c., to person appointed in that behalf.

**58.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, require any wholesale or retail trader in any necessary commodity and any supplier of any necessary service to produce for examination by any person who has the authority in writing of the President, and at any time and place fixed by the President, any books, documents, and writings in his possession or under his control which may be deemed by the President to be necessary for the purpose of obtaining information in respect of any matters coming within the scope of this Act. Such trader or supplier shall when required by the person so appointed allow him to make copies or abstracts of any such books, documents, and writings so produced, or of any entries therein.

(2) Any such trader or supplier who refuses or fails to comply with any requirement made under this section shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

Power of President to require returns of quantities, costs, prices, charges, &c.

**59.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person who is a producer, manufacturer, distributor, or seller (whether wholesale or retail) of any specified necessary commodity, or is a supplier of any specified necessary service, to furnish to the President or to any person authorised by the President in that behalf, and within a specified time and in a specified form, a return setting forth to the best of such person's knowledge and ability the following particulars or such of them as may be specified in such notice, namely—

- (a) the quantity of any specified commodity in his possession or under his control at the date of such notice;
- (b)



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*Profiteering Prevention.*

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- (b) the cost to such person of such commodity ;
- (c) the prices, wholesale and retail, at which he sells or proposes to sell such commodity ;
- (d) the cost to such person of the supply of such service ;
- (e) the charges which he makes or proposes to make for the supply of such service ;
- (f) the methods and principles in accordance with which he arrives at such costs, prices, and charges ; and
- (g) such further particulars as may be specified in such notice.

(2) Such notice may be either a notice given to such person individually or a notice to such persons or a class of such persons generally ; and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

(3) Such return shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

- (a) fails to comply with any of the requirements of such notice ; or
- (b) wilfully furnishes any false or misleading return, shall be guilty of an offence against this Act.

**60.** (1) Any inspector may, with the authority in writing of the President, whether an investigation or inquiry under this Act has been instituted or not—

- (a) enter upon the premises of any person having, or suspected of having, in his possession or under his control any necessary commodity, or being a supplier of any necessary service ;
- (b) require such person to give to such inspector full and accurate information as to—
  - (i) the quantities of such commodity in such person's possession or under his control and the cost to such person of such commodity ; and

(ii)

*Profiteering Prevention.*

- (ii) the prices or rates of profit, wholesale and retail, at which such person is selling such commodity; and
- (iii) the charges which such person is making for the supply of such service; and
- (c) require such person to produce for examination by such inspector all books, documents, and writings relating to such commodity or service and to allow such inspector to make copies or abstracts of such books, documents and writings or of any entries therein.

(2) If such person refuses to allow such inspector to enter upon his premises, or refuses or fails to give such information or to produce such books, documents, and writings, or to allow such copies or abstracts to be made, or knowingly gives false or misleading information, he shall be liable in each case to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

Power of  
President to  
impound  
books, &c.

**61.** The President may impound or retain any book, document, or writing produced to him or to any person appointed as aforesaid, but the person otherwise entitled to such book, document, or writing shall in lieu thereof be entitled to a copy certified as correct by the President, and such certified copy shall be receivable in all courts as evidence and as of equal validity with the original. And until such certified copy is supplied, the President may, at such times and places as he shall think proper, permit such person, or in the case of a corporation any person appointed by the corporation, to inspect and make copies or abstracts of the book, document, or writing so impounded or retained or of any entries therein.

Proof of  
proclamations  
and notices  
and contents  
thereof.

**62.** Any proclamation or notice issued or given under this Act, and published in the Gazette; and the contents of such proclamation or notice may be proved in any court by the production of—

- (a) a copy of the Gazette purporting to contain such proclamation or notice; or
- (b) a copy of such proclamation or notice purporting to be printed by the Government Printer.

**63.**

*Profiteering Prevention.*

**63.** (1) The publication of a proclamation or notice in the Gazette shall be conclusive evidence in any court—

- (a) that the fixed price of or fixed rate of profit on any commodity, or the fixed charge for or rate of profit on any service, as therein appearing has been duly and lawfully fixed ;
- (b) that the commodity or service is a necessary commodity or service ; and
- (c) that all steps necessary for the fixing of such price or rate of profit or charge have been duly taken in accordance with the provisions of this Act.

(2) It shall not be competent for any person or court by any means whatever to question the legality or correctness of such fixed price or rate of profit or charge, or whether any commodity, the fixed price of or rate of profit on which is declared in such notice is a necessary commodity or whether any service for the supply of which a fixed charge or rate of profit is therein declared is a necessary service.

**64.** (1) So far as such publication is deemed by the President to be expedient in the public interest it shall be lawful for him from time to time to publish in such manner as he thinks fit any information obtained in the course of any investigation, inquiry, or proceeding under this Act, and any report, findings, recommendations, or comments made with respect thereto by the President, Commissioner, person, or magistrate before whom such investigation, inquiry, or proceeding takes place.

(2) The publication of any such matter by the President and the republication by any other person of any matter published by the President or of any part of such matter shall be absolutely privileged, and the matter so published 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 such matter, whether on the ground of defamation or otherwise.

Gazette notice to be conclusive evidence in certain cases. cf. Necessary Commodities Control Act, 1919, s. 33.

Power of President to publish information derived in course of judicial inquiry or investigation. cf. Board of Trade Act, 1919 (N.Z.), s. 24.

*Profiteering Prevention.*

Resisting  
obstructing  
inspectors, &c.  
cf. Necessary  
Commodities  
Control Act,  
1919, s. 35.

**65.** Any person who in any way resists, interferes with, hinders, or obstructs any inspector or other officer or person in the exercise or discharge of any power or duty under this Act shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds.

Revealing  
information  
without  
lawful excuse.

**66.** Any person, or agent or servant of such person, who, without lawful excuse, reveals any matter or thing which has come to his knowledge in the course of the exercise by him of any power or authority conferred by this Act or, as the case may be, in his capacity of agent or employee of such person, shall be liable to a penalty not exceeding two hundred pounds.

Submission of  
questions of  
law to  
Supreme  
Court.  
cf. *Ibid.* s. 37.

**67.** (1) If in the opinion of the President any question of law arises in the course of any proceeding under this Act the President shall, if any party to such proceeding so desire, state a case for the determination of that question of law by the Supreme Court.

(2) The determination of the Supreme Court shall be binding upon the President and upon all parties to such proceeding.

Freedom  
from liability.  
cf. *Ibid.* s. 34.

**68.** No action shall lie against any person for any act or thing done by him under any authority conferred or purporting to be conferred upon him by or under this Act.

Power to  
make  
regulations.  
cf. *Ibid.* s. 38.

**69.** (1) The Governor may from time to time make regulations for carrying out the provisions and objects of this Act, and for prescribing the procedure thereunder.

(2) Any such regulation may impose any penalty not exceeding twenty pounds for each breach of the same, or, where the breach is a continuing one, any further penalty not exceeding five pounds for every day after the first during which such breach continues.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of

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*Profiteering Prevention.*

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of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

**70.** Nothing in this Act shall apply to the sale or supply of any necessary commodity for export from New South Wales or to the sale or supply of any necessary commodities by public auction or competitive tender.

Saving as to export, &c. cf. Necessary Commodities Control Act, 1919 (Vic.), s. 2.

**71.** This Act shall be in force until the thirty-first day of December, one thousand nine hundred and twenty-two.

Duration of Act.

*In the name and on behalf of His Majesty I assent to this Act.*

W. E. DAVIDSON,

*Government House,*

*Governor.*

*Sydney, 31st December, 1920.*



PROFITEERING PREVENTION BILL.

*SCHEDULE of Amendments referred to in Message of 21st December, 1920.*

- Page 2, clause 2, lines 22 and 23. *Omit* "Commissioner for Railways and Tramways," *insert* "**Railway Commissioners for New South Wales.**"
- Page 2, clause 2. At end of clause *add* "**or to any undertaking included in Schedule One of the Gas Act, 1912.**"
- Page 3, clause 4, lines 6 and 7. *Omit* "of the Board of Trade," *insert* "**appointed under this Act.**"
- Page 3, clause 4. After definition of "Commissioner," *insert* new definition as follows:—" **Commodity** means necessary commodity."
- Page 3, clause 4, line 28. *Omit* "or commodity"
- Page 4, clause 4. After line 12 *insert* "**but does not include any prescribed agricultural or pastoral product in ownership or possession of the grower or producer thereof.**"
- Page 4, clause 4, line 16. *Omit* "or service"
- Page 4, clause 4, line 35. *Omit* "any" and after "regulation" *insert* "or"
- Page 4, clause 4, line 36. *Omit* "order, or notice."
- Page 4, clause 4, line 37. *Omit* "or given."
- Page 4, clause 4. After definition of "retail" *insert* new definition as follows:—" **Service** means necessary service"
- Pages 5 and 6. *Omit* clause 5, *insert* new clause 5.
- Page 6 and 7, clause 6. *Omit* clause, *insert* new clause 6.
- Page 7, clause 7. *Omit* clause, *insert* new clause 7.
- Page 8, clause 8, line 20. *Omit* "or person"
- Page 8, clause 8, line 35. After "Governor" *insert* "**on the recommendation of the Public Service Board**"
- Page 8, clause 9, line 37. *Omit* "the Governor" *insert* "he"
- Page 8, clause 9, lines 38 and 39. *Omit* "who shall hold office during the pleasure of the Governor"
- Page 9, clause 10, line 11. *Omit* "shall" *insert* "may"
- Page 10. *Omit* clause 11, *insert* new clause 11.
- Page 11, clause 12, subclause 5, line 24. After "continuous" *omit* to end of subclause.
- Page 11, clause 12. At end of subclause (7) *add* "**unless the President or the Supreme Court otherwise orders**"
- Page 12, clause 13. *Omit* clause 13.
- Page 12, clause 14, line 38. *Omit* "shall" *insert* "may"
- Page 13, clause 14, line 1. *Omit* "and disseminate"
- Page 13, clause 14, line 6. *Omit* "assistance" *insert* "control"
- Page 13, clause 14. *Omit* subclauses (2) and (3).
- Page 14, clause 15, lines 21, 22, and 23. *Omit* "or of some person authorised in writing by the Attorney-General to give such leave, and application for such leave shall not be made" *insert* "**and no such leave shall be granted**"
- Page 14, clause 15, line 24. *Omit* "one month" *insert* "**six weeks**"
- Page 15, clause 17, line 10. After "time" secondly occurring *add* "**after inquiry**"
- Page 15, clause 17. At end of paragraph (a) *add* "**for consumption or use in New South Wales**"
- Page 16, clause 17. At end of paragraph (i) *add* "**and salaries**"
- Page 16, clause 17. *Omit* paragraph (l).
- Page 16, clause 17, line 28. After "profit" *insert* "**on commodities**"
- Page 17, clause 17. *Omit* paragraphs (c), (d), and (e) *insert* new paragraphs (c), (d), and (e).
- Page 17, clause 17. *Omit* subclause (4).
- Page 18. *Omit* clause 20.
- Page 19, clause 21, line 18. After "profit" *insert* "**on the supply of any service**"
- Page 19, clause 21. *Omit* paragraph (e).
- Page 19, clause 21, subclause (2). *Omit* paragraphs (a), (b), and (c), *insert* new paragraphs (a), (b), and (c).
- Page 20, clause 21. *Omit* subclauses (3) and (5).

- Page 20, clause 22, line 15. *After* "may" *insert* "**upon the recommendation of the President**"
- Page 22, clause 23, line 13. *Omit* "he may deem reasonable in the circumstances" *insert* "**may be determined by the President after hearing the parties concerned**"
- Page 23, clause 25. *Omit* from beginning of clause to and inclusive of the word "or" in line 25.
- Page 23, clause 25, line 29. *After* "service" *insert* "**shall keep such books of account as will enable**"
- Page 23, clause 25, lines 31 and 32. *Omit* "to adopt such methods as may be prescribed for ascertaining"
- Page 23, clause 25, line 36. *After* "service" *insert* "**to be ascertained**"
- Pages 23, 24, and 25, clause 25. *Omit* paragraphs and subclauses to and inclusive of subclause (6).
- Page 25, clause 25, subclause (7). *Omit* paragraph (b).
- Page 25, clause 27. *After* line 34 *insert* new paragraph (b).
- Page 27, clause 28, line 7. *Omit* "but in no other case"
- Page 27, clause 28. *Omit* subclause (3) and proviso.
- Page 27. *Omit* clause 30.
- Page 28, clause 31. *Omit* subclause (2).
- Page 28, clause 33. *Omit* subclause (2).
- Page 29. *After* clause 33 *insert* new clause 33A.
- Page 30, clause 34, line 1. *Omit* "or legibly written"
- Page 30, clause 34, line 1. *After* "list" *insert* "**as published in the Gazette**"
- Page 30, clause 34, lines 4 and 5. *Omit* "and such further particulars (if any) as shall be prescribed" *insert* "**Printed lists of such fixed prices or charges shall be made available by the Minister**"
- Page 30, clause 34, subclause (2), line 7. *Omit* "any of"
- Page 30. *Omit* clause 35.
- Page 30. *After* clause 37 *insert* new clause 37A.
- Page 31, clause 41, line 42. *After* "be" secondly occurring *insert* "**liable to be**"
- Page 32. *After* clause 43 *insert* new clause 43A.
- Page 33, clause 44, lines 9, 10, and 11. *Omit* "twenty-two, twenty-three, twenty-four, twenty-five, thirty, thirty-two, fifty-nine, sixty, or sixty-one"
- Page 33, clause 44, line 11. *After* "thirty-two" *insert* "**or**"
- Page 33, clause 44, line 13. *Omit* "before the Supreme Court"
- Page 33, clause 44, line 14. *Omit* "penal servitude" *insert* "**a penalty of not less than fifty or more than five hundred pounds, and to imprisonment or to both**"
- Page 33, clause 44, line 19. *Omit* "not exceeding five years" *insert* "**of not more than twelve months**"
- Page 33, clause 44, lines 20 and 21. *Omit* "exceeding one thousand pounds" *insert* "**less than one hundred nor more than three thousand pounds**"
- Page 34, clause 48, line 1. *Omit* "in New South Wales"
- Page 34, clause 48. *Omit* paragraph (b).
- Page 36, clause 52, line 6. *Omit* "Minister" *insert* "**President**"
- Page 38, clause 57. *Omit* subclause (2).
- Pages 42 and 43. *Omit* clause 65.
- Page 44. *Insert* new clauses **72** and **73**



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. S. MOWLE,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 18 November, 1920, A.M.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 21 December, 1920.*

## **New South Wales.**



ANNO UNDECIMO

# GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1920.

An Act to prevent undue profit-taking ; to provide for the control and acquisition of necessary commodities and the control of necessary services ; to obtain information as to the operations of trusts and other associations ; to prevent unfair methods of trade competition ; to promote co-operative enterprise ; to amend the Acts relating to Industrial Arbitration ; to repeal the Necessary Commodities Control Act, 1919 ; and for purposes consequent thereon or incidental thereto.

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BE

NOTE.—The words to be omitted are ruled through ; those to be inserted are printed in black letter.

*Profiteering Prevention.*

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
 5 the same, as follows:—

**1.** This Act may be cited as the "Profiteering Short title.  
 Prevention Act, 1920," and is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 2-4.

10 PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—*ss.* 5-9.

PART III.—JURISDICTION—*ss.* 10-26.

PART IV.—PARTICULAR OFFENCES—*ss.* 27-43.

PART V.—PENALTIES AND FORFEITURES—*ss.* 44-54.

15 PART VI.—SUPPLEMENTARY AND GENERAL—*ss.* 55-71.

## PART I.

## PRELIMINARY.

**2.** This Act shall not apply to the Crown or to any Application.  
 20 department of His Majesty's Government, or to any shire or municipal council, or to the Municipal Council of Sydney, or to the ~~Commissioner for Railways and Tramways,~~ Railway Commissioners for New South Wales, or to the Metropolitan Board of Water Supply and  
 25 Sewerage, or to the Hunter District Board of Water Supply and Sewerage, or to any statutory body representing the Crown, or to any undertaking included in Schedule One of the Gas Act, 1912.

**3.** (1) The Necessary Commodities Control Act, Repeal and  
 30 1919, is hereby repealed, except as to things done or savings.  
 commenced and offences committed before the passing of this Act, which shall respectively be continued and dealt with under this Act.

(2) All rules, regulations, orders, directions,  
 35 and notices made or given under the authority of the said Act and in force at the commencement of this Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made or given under the authority of this Act.

**4.**

*Profiteering Prevention.*

**4.** In this Act, except where the context or subject-matter otherwise indicates or requires,—

- Interpreta-  
tion.  
cf. Necessary  
Commodities  
Control Act,  
1919, s. 5.
- 5 "Board of Trade" means the "New South Wales Board of Trade" as constituted by the Industrial Arbitration (Amendment) Act, 1918.
- "Commissioner" means a Commissioner ~~of the Board of Trade~~ appointed under this Act.
- "Commodity" means necessary commodity.
- 10 "Corporation" includes a public company.
- "Fixed charge" means the charge fixed and declared by the President to be the maximum charge which may be demanded or received for the supply of any necessary service.
- 15 "Fixed price" means the price fixed and declared by the President to be the maximum price which may be demanded or received on the sale of any necessary commodity.
- 20 "Fixed rate of profit" means the rate of profit fixed and declared by the President to be the maximum rate of profit which may be demanded or received on the sale of any necessary commodity or the supply of any necessary service.
- "Inspector" means an inspector appointed under this Act.
- 25 "Minister" means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.
- 30 "Necessary commodity" or "~~commodity~~" means any of the following:—
- (a) coal, firewood, coke, kerosene, petrol, or other fuel;
- (b) any article of food or drink for man or for any domesticated animal;
- 35 (c) any article of clothing or apparel for man, including hats, footwear, and haberdashery;
- (d) any article made of wool, linen, or cotton, or partly of one and partly of another;
- (e) fertilisers;
- 40 (f) any article which enters into or is used in the composition or preparation of any of the foregoing commodities;
- (g) agricultural implements; (h)

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*Profiteering Prevention.*

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- (h) tools of trade ;
- (i) seeds for sowing ;
- (j) any article of furniture ;
- (k) any building material ;
- 5 (l) drugs, proprietary medicines, medical instruments, chemicals, disinfectants, soaps, and toilet requisites ;
- (m) oils ; and
- 10 (n) any commodity which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary commodity.

but does not include any prescribed agricultural or pastoral product in the ownership or possession of the grower or producer thereof.

15 " Necessary service " ~~or " service "~~ means any of the following :—

- (a) the supply of gas or electricity for lighting, heating, cooking, or industrial purposes ;
- 20 (b) the supply of water for human consumption or for domestic or industrial purposes ;
- (c) the carriage of goods by land or sea ;
- (d) the carriage of persons by ferry ;
- (e) refrigeration and cool storage ;
- 25 (f) the burial of the dead ; and
- (g) any service which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary service.

30 " Person " includes any association or combination of persons, whether incorporated or unincorporated.

" President " means President of the Profiteering Prevention Court established by this Act.

35 " Prescribed " means prescribed by this Act or by ~~any regulation or proclamation order, or notice made or given~~ thereunder.

" Retail " shall be deemed to refer to the sale to a person for the purpose of consumption or use ; and " retail trader " has a corresponding interpretation.

40 " Service " means necessary service.

" Specified "

*Profiteering Prevention.*

- “Specified” means specified by notice in the Gazette or by notice to a particular person or persons.
- 5 “Vessel” includes any ship, lighter, barge, boat, raft, or craft of whatever description and however navigated or propelled.
- 10 “Wholesale” shall be deemed to refer to the sale or supply to a person for the purpose of resale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer, or producer to a wholesale or retail trader); and “wholesale trader” has a corresponding interpretation.

## PART II.

## 15 AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

5. (1) For the purpose of administering and enforcing this Act there is hereby constituted a court to be known as the “Profiteering Prevention Court.” Profiteering Prevention Court.
- 20 (2) The President of the Board of Trade shall be the Judge of the said Court, and shall, when exercising his functions under this Act, be styled “President of the Profiteering Prevention Court.” President.
- 25 (3) (a) The Governor may appoint one or more Judges of the Court of Industrial Arbitration or District Court or any person or persons (not exceeding two in number) as an Auxiliary Judge or as Auxiliary Judges of the Profiteering Prevention Court. Auxiliary Judges.
- 30 (b) Any such person so appointed shall be appointed in the first instance for a term of five years, and shall receive a salary of one thousand five hundred pounds per annum.
- 35 (c) An Auxiliary Judge shall exercise any functions committed to him by the President, which the President may exercise under this Act, and for such purposes shall have the powers of the President under this Act.

*Profiteering Prevention.*

(4) In the event of and during the absence, Deputy President.  
 from whatever cause, of the President, the Governor  
 may appoint an Auxiliary Judge or, if there be no such  
 judge available, the Deputy President of the Board of  
 5 Trade to be the Deputy President of the Profiteering  
 Prevention Court and to exercise the functions of the  
 President under this Act.

(5) Judicial notice shall be taken of the signatures  
 of the President, Deputy President, and Auxiliary Judge  
 10 or Judges of the said Court.

**5. (1) For the purpose of administering and enforcing this Act there is hereby constituted a court to be known as the "Profiteering Prevention Court."** Profiteering Prevention Court.

(2) The Governor may appoint a Judge of the President.  
 15 Supreme Court, or the Court of Industrial Arbitration,  
 or the District Court to be the Judge of the said Court,  
 and such Judge shall, when exercising his functions  
 under this Act, be styled "President of the Profiteering  
 Prevention Court."

20 (3) (a) The Governor may appoint one or more Additional  
 Judges of the Supreme Court, or the Court of Industrial  
 Arbitration, or the District Court as an Additional  
 Judge or as Additional Judges of the Profiteering Pre-  
 vention Court.

25 (b) An Additional Judge shall exercise any  
 functions committed to him by the President, which the  
 President may exercise under this Act, and for such  
 purposes shall have the powers of the President under  
 this Act.

30 (4) In the event of and during the absence from Deputy  
 whatever cause, of the President, the Governor may  
 appoint an Additional Judge to be the Deputy President  
 of the Profiteering Prevention Court and to exercise the  
 functions of the President under this Act.

35 (5) Judicial notice shall be taken of the signa-  
 tures of the President, Deputy President, and Additional  
 Judge or Judges of the said Court.

**6. (1) The President may himself hold any investi- Power to  
 gation or inquiry under this Act or may refer to the refer to Com-  
 40 Deputy President of the Board of Trade or to any Com- missioner or  
 missioner thereof or, with the approval of the Minister, other person  
 to or inquiry.**

*Profiteering Prevention.*

to any other person the conduct of any investigation or inquiry which the President has power to hold under this Act, and may fix the time and place, whether in Sydney or elsewhere in New South Wales, for the holding of the same.

(2) For the purposes of such reference such Deputy President, Commissioner or person shall have the powers of the President under this Act.

**6.** (1) The President may himself hold any investigation or inquiry under this Act, or the Governor may, upon the recommendation of the President, appoint a barrister or a public accountant of not less than five years standing to whom the President may refer the conduct of any such investigation or inquiry for report to him or may fix the time and place or places for the holding of the same.

Power to appoint a barrister or a public accountant to conduct an investigation or inquiry.

(2) For the purposes of such reference such barrister or public accountant when so appointed shall have the powers of the President under this Act, and shall be styled "Commissioner of the Profiteering Prevention Court."

**7.** (1) The President may, or, for the purposes of such reference, such Commissioner or person may, have associated with him persons (hereinafter referred to as "assessors") possessing special expert or business knowledge:

Assessors.

Provided that there shall not be more than two assessors for each investigation or inquiry.

(2) Every such assessor—

- 30 (a) shall be appointed by the Minister;
- (b) shall hold office during the pleasure of, and may be removed from office by, the Minister;
- (c) shall be entitled to such remuneration for his services and such travelling allowance as the Minister may from time to time determine; and
- 35 (d) shall sit with the President or such Commissioner or person, as the case may be, in an advisory capacity in any matters connected with such investigation or inquiry.
- 40

*Profiteering Prevention.*

7. (1) The President may, or, for the purposes of <sup>Assessors.</sup> such reference, such Commissioner may, have associated with him persons (hereinafter referred to as " assessors ") possessing special expert or business knowledge :

5 Provided that there shall not be more than two assessors for each investigation or inquiry.

(2) Every such assessor—

(a) shall be appointed by the Minister upon the recommendation of the President ;

10 (b) shall hold office during the period of such investigation or inquiry, unless removed by the Minister upon the recommendation of the President ;

15 (c) shall be entitled to such remuneration for his services and such travelling allowance as the Minister may from time to time determine ; and

(d) shall sit in an advisory capacity in any matters connected with such investigation or inquiry.

20 8. (1) Such Commissioner ~~or person~~ shall, upon the completion of such investigation or inquiry, forward to the President, with such recommendations as he may think fit to make, a detailed report of the same together with the oral and documentary evidence received in the <sup>Report by Commissioner or other person to President.</sup> course thereof. Any assessor, if he does not agree with such recommendations, may forward to the President a separate report stating his reasons for dissenting therefrom and making such other recommendations as he may think fit.

30 (2) The President shall proceed to consider such reports and recommendations, and may, with or without hearing further evidence, act upon the same as if such investigation or inquiry had been held in the first instance by himself.

35 9. The Governor, on the recommendation of the <sup>Appointment of secretary and other officers.</sup> Public Service Board, may appoint a secretary to the President and such other officers as ~~the Governor~~ he thinks necessary, ~~who shall hold office during the pleasure of the Governor.~~ Such secretary and other officers shall, subject



*Profiteering Prevention.*

subject to the provisions of any award or industrial agreement, receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts 5 during their tenure of office.

## PART III.

## JURISDICTION.

(1) *Power to investigate and inquire into the operations of trusts, &c.*

- 10 **10.** (1) Without prejudice to the generality of his powers under this Act the President shall **may** investigate and inquire into the nature, extent, development, and operations of trusts, companies, firms, combinations, agreements, and arrangements connected with mining, manufactures, trade, commerce, finance, carriage, or transport in order to ascertain whether their purpose or effect is the regulation of the prices or output of commodities or services produced or supplied in New South Wales or imported into New South Wales, or the de-  
 20 limitation of markets in respect thereof, or the regulation of transport rates and services in so far as they tend to the creation of monopolies or to the restraint of trade, or to the abuse of a power to control trade; and the President
- Power to investigate and inquire into the operations of trusts, &c. cf. Imperial Profiteering Act, 1919.

*Profiteering Prevention.*

President shall for the purposes of this section utilize the powers of investigation or inquiry conferred upon him by this Act.

(2) This section shall operate and have full force and effect whether or not maximum prices, rates of profit, or charges have been fixed under this Act.

(3) The President shall from time to time forward to the Governor a report embodying any information acquired by him under the provisions of this section, and any recommendations based thereon which he may think fit to make.

(2) *Power to prevent cornering and unfair methods of trade competition and discrimination.*

**11.** Any person who buys up or stores or retains in his possession or under his control any necessary commodity, whether the maximum price thereof or maximum rate of profit thereon has or has not been fixed under this Act, with intent to raise the price thereof or to restrain trade therein, shall be guilty of an offence against this Act, and such commodity shall be liable to forfeiture as hereinafter provided.

**11.** Any person who buys up any necessary commodity and stores or retains it in his possession or under his control, whether the maximum price thereof or maximum rate of profit thereon has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein, shall be guilty of an offence against this Act, and such commodity shall be liable to forfeiture as hereinafter provided.

Corners and restrictions on circulation of commodities.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 18.

**12.** (1) If the President has reason to believe—  
 (a) that any person is using any unfair method of competition or discrimination in trade in any necessary commodity; and  
 (b) that a proceeding by him in respect thereof will be to the interest of the public,

Unfair methods of trade competition and discrimination.

he may serve upon such person a complaint stating his charges in that respect, and calling upon such person to show cause why he should not be ordered to cease from using such unfair method. Such complaint shall fix a hearing for a day not less than thirty days after the service of such complaint.

(2)

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*Profiteering Prevention.*

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(2) Such person shall be entitled on the hearing to show cause why an order should not be made by the President requiring him to cease from using the unfair method charged in such complaint.

5 (3) Any other person may apply, and on good cause shown may be allowed by the President, to intervene and appear on such hearing.

(4) If upon such hearing the President is satisfied that the method so charged is unfair, he shall  
10 make a report in writing in which he shall state his findings as to the facts, and shall cause to be served on such person an order requiring him to cease within a specified time from using such unfair method.

(5) If such person fails to obey such order he  
15 shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds (and to a further penalty not exceeding fifty pounds for every day after the first during which such failure continues) or to imprisonment for a term not exceeding  
20 six months. If the offender be a corporation, such corporation shall be liable to a penalty not exceeding five hundred pounds and to a further penalty not exceeding one hundred pounds for every day after the first during which such failure continues; and, in  
25 addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

(6) Such person may within fourteen days after  
30 the day upon which such order is made appeal therefrom to the Supreme Court by filing in such Court a notice of appeal.

(7) Notwithstanding the filing of such notice of appeal such order shall continue to have full force and  
35 effect unless the President or the Supreme Court otherwise orders.

(8) Upon the filing of such notice of appeal the Court shall have jurisdiction over the proceeding, and may make a decree or order affirming, varying, or setting  
40 aside the order of the President.

(9) The Court may make rules as to proceedings before it under this section.

*Profiteering Prevention.*

(3) *Power to recommend the taxation of excess profits.*

13. (1) In any case in which the President finds that the price or profit on the sale of any necessary commodity, or the price or profit at any stage of the production, manufacture, or distribution of the same, or the profit on the supply of any necessary service is, or has been for any period since the first day of January, one thousand nine hundred and fifteen, excessive or unreasonable, he shall forward to the Governor a report embodying such finding, and the facts and circumstances upon which he bases the same.

Power to recommend taxation of excess profits in lieu of fixing prices, &c.

(2) If the Governor shall so require, the President shall, in respect of any prices or profits referred to in any such report, proceed to inquire and report what selective tax upon the profits made on the sale of such commodity or at any stage of the production, manufacture, or distribution thereof, or on the supply of such service, would deprive the person making such profits of any excessive or unreasonable benefit or advantage; and, where such profits are made in respect of a sale, production, manufacture, distribution, or supply outside the State, what person or persons within the State should be deemed, for the purposes of taxation, to be the agent or agents of the person engaged in such sale, production, manufacture, distribution, or supply, and deriving such benefit or advantage.

(3) The Governor may from time to time require the President to hold investigations and inquiries with regard to any specified commodity or group of commodities, or with regard to any specified service, for the purpose of giving effect to the powers and performing the duties committed to the President by this section.

(4) *Power to promote co-operative enterprise.*

14. (1) In order to encourage the creation of a system of checks by popular action upon the undue raising of prices, profits, or charges in respect of the sale of any necessary commodity or the supply of any necessary service, the Board of Trade shall may forthwith proceed to

Power of Board of Trade to encourage and establish report to Governor as to promotion of societies for co-operative enterprise.

*Profiteering Prevention.*

to acquire and disseminate knowledge of the principles and practice of co-operative enterprise, and may from time to time, with a view to the reduction of the average cost of living, report to the Governor on and  
5 propound schemes for—

- (a) the promotion and assistance control of co-operative enterprise for the wholesale and retail supply of necessary commodities or the supply of necessary services ;
- 10 (b) the constitution of co-operative societies, co-operative banks, and credit unions for such purposes ; and
- (c) the conditions upon which a co-operative society, bank, or union shall carry on business.
- 15 (2) The Governor may on prescribed conditions, authorise the payment out of the Consolidated Revenue Fund, which is hereby charged therewith, to any co-operative society, bank, or credit union of subsidies or loans which shall not, in the case of a subsidy or  
20 subsidies to any one society, exceed in all twenty per centum of the total amount of the capital subscribed for the purposes of such society ; and shall not, in the case of a loan or loans to any one society, exceed in all sixty per centum of the total amount of the capital so  
25 subscribed.
- (3) The Governor may make and publish in the Gazette any necessary or convenient regulations for giving effect to the provisions and objects of this section. Such regulations shall take effect from the date of such  
30 publication, or from a later date to be specified therein, and shall be independent of, and have concurrent authority with, the provisions of the Building and Co-operative Societies Act, 1901.

*(5) Power to investigate complaints.*

- 35 **15.** (1) The President may as regards any necessary commodity, or any necessary service, in respect of which no maximum price or rate of profit or charge has been fixed under this Act, receive and investigate complaints that a profit is being or has been, since the commencement

Power to investigate complaints and fix reasonable prices and charges.  
cf. Imperial Profiteering Act, 1919.

*Profiteering Prevention.*

commencement of this Act, made or sought on the sale of such commodity, whether wholesale or retail, or on the supply of such service, which is, in view of all the circumstances, unreasonable, and on any such complaint **5** the President may, after giving the parties an opportunity of being heard, either—

(a) dismiss the complaint; or

**10** (b) fix the price or charge which would yield a reasonable profit, and require the seller of the commodity or the person supplying the service to repay to the complainant any amount paid by the complainant in excess of such price or charge.

**15** (2) Any seller or person supplying such service who in such proceeding is proved to have charged or sought a profit which is, in view of all the circumstances, unreasonable shall be guilty of an offence against this Act:

**20** Provided that no proceeding under this section shall be instituted without the leave of the Attorney-General ~~or of some person authorised in writing by the Attorney-General to give such leave, and application for such leave shall not be made~~ **and no such leave shall be granted** after the expiration of ~~one month~~ **six weeks** from the date of **25** the transaction complained of.

**16.** Where any persons, or associations of persons, appearing to the President to represent a substantial proportion of the persons engaged in the production, manufacture, sale, or distribution of any necessary commodity, or class of necessary commodities, or **30** engaged in the supply of any necessary service, submit to the President a scheme limiting the rate of profit to be allowed on the production, manufacture, sale, or distribution of such commodity or **35** class, at all or any stages of production, manufacture, sale, or distribution, or on the supply of such service, the President may, if he thinks it expedient, approve the scheme; and, where such scheme is so approved, any profit sought or obtained in connection with the manufacture, production, sale or distribution of

Power to ap  
prove schemes  
limiting  
profits.

cf. Imperial  
Profiteering  
(Amendment)  
Bill, 1920,  
s. 1.

*Profiteering Prevention.*

of any commodity, or the supply of any service, to which the scheme relates, which does not exceed such profit as is allowed by or under that scheme, shall not be deemed unreasonable for the purposes of the last 5 preceding section.

(6) *Power to fix maximum prices of, and maximum rates of profit on, commodities.*

10 **17.** (1) Without limiting the generality of section fifteen the President may, by notice in the Gazette and in prescribed newspapers (if any) from time to time after inquiry—

Power to fix maximum prices, maximum rates of profit, &c.

(a) fix the highest price, wholesale or retail, at which any necessary commodity may be sold or supplied for consumption or use in New South Wales—

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 10.

15

(i) by fixing such price directly; or

(ii) by fixing the highest rate of profit (and whether gross profit or not as the President thinks fit) at which any necessary commodity may be sold or supplied or which may be charged or received in respect thereof:

20

Provided that a maximum price and also a maximum rate of profit may be fixed with respect to the same necessary commodity;

25

(b) fix the delivery charge which may be charged for the delivery of any necessary commodity from the place of business of the trader to places within a specified radius thereof;

30

(c) fix different maximum prices or rates of profit according to differences in quality or description, or in the quantity sold or supplied, or according to whether the sale or supply is by wholesale or by retail;

35

(d) fix different maximum prices or rates of profit for different parts of New South Wales;

(e) fix any maximum price or rate of profit relatively to such standards of measurement, weight, capacity or otherwise as he thinks proper;

(f)

*Profiteering Prevention.*

- (f) fix maximum prices or rates of profit on a sliding scale;
- (g) fix maximum prices or rates of profit varying in accordance with a standard, time, or other circumstance;
- 5 (h) fix maximum prices or rates of profit on a condition or conditions;
- (i) fix maximum prices varying with profits, dividends, or wages and salaries;
- 10 (j) fix maximum prices or rates of profit for cash, delivery, credit, or time-payment, and in either case inclusive or exclusive of the cost of packing;
- (k) fix maximum prices or rates of profit on the basis of manufacturing, landed, delivered or other cost; and declare what items may or may not be included in such cost and whether in determining such cost regard is to be had to the invoice cost of the materials used or to the cost of replacing the materials used or to any other method or principle specified in the proclamation;
- 20 (l) fix the maximum rates of profit which may be made in any business or in any department, division, or connected transactions of a business, or on any group of commodities sold or supplied therein;
- 25 (m) fix maximum prices or rates of profit on commodities according to or upon any principle or condition or upon any basis prescribed; and
- 30 (n) vary or revoke any maximum price or rate of profit previously fixed by him, but so as to apply only to future transactions.
- (2) The President may for the purposes of this Act investigate prices, costs, and profits at all stages.
- 35 (3) The President shall, in fixing prices or rates of profit under this section, fix such prices or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers there-
- 40 under), have regard to—
- (a) the actual cost to the seller of such commodity;
- (b)



*Profiteering Prevention.*

- (b) the average cost to the seller of the stock of such commodity in his possession for the purposes of his business ;
- 5 (c) the average selling price of, or average rate of profit on the sale of, such commodity during the year ending on the thirtieth day of June, one thousand nine hundred and fourteen ;
- 10 (d) the difference between the respective rates of wages paid by employers engaged in the production, manufacture, distribution, or sale of such commodity on such day and on the day on which the price or rate of profit is fixed ;
- 15 (e) the difference between the respective prices of commodities used in the production, manufacture, distribution, or sale of such commodity on such day and on the day on which the price or rate of profit is fixed ; and
- 20 (c) the cost at date of inquiry of wages, commodities, rent, rates, taxes, and any other expenses and contingencies ;
- (d) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes ; and
- (e) any fluctuations in trade or in profits.
- 25 (f) whether such commodity is produced or manufactured in, or is imported into, the Commonwealth.

(4) Where the business mentioned in paragraph (c) of subsection one of this section is carried on by a corporation, the President shall, in fixing maximum rates of profit under such paragraph (but without limiting the generality of his powers under this section) have regard to—

- 35 (a) the extent (if any) to which the capital of the said corporation has been increased by the issue of new shares or by the capitalization of profits or reserves, or by any method whatsoever ;
- 4 (b) the amount (if any) of the reserves held by such corporation ; and
- (c) the purpose and effect of any reconstructions or amalgamations affecting such corporation.

*Profiteering Prevention.*

(5) The notice mentioned in subsection one shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum price or rate of profit or delivery charge shall take effect.

18. (1) The President may by notice as aforesaid declare that the market price of any necessary commodity shall not be increased on or after a date to be fixed by such notice.

Power to prohibit increase in price of necessary commodities.

cf. Necessary Commodities Control Act, 1919, s. 12.

10 (2) The market price of such commodity on such date shall be deemed to be the fixed price therefor, and shall be deemed to have been fixed under the last preceding section.

15 19. (1) The President may, by notice delivered to any person, require that such person shall not, on or after a date to be fixed by such notice, increase the price charged by such person for any commodity, or the charge made by him for the supply of any service, specified in such notice, unless such person first obtains the permission in writing of the President.

Power to prohibit specific persons from increasing prices.

cf. *Ibid.* s. 13.

20 (2) The price charged by such person for such commodity, or the charge made by him for such service on the date fixed by such notice shall be deemed to be the fixed price or charge which may be demanded or received by such person, and shall be deemed to have been fixed under section seventeen.

25 20. Where the maximum price or rate of profit in respect of the sale of any necessary commodity or the delivery charge therefor has been fixed under this Act, that price or rate of profit or delivery charge shall apply to—

Application of fixed price or rate of profit to sale under contract.

35 (1) the sale, supply, or delivery of any of such commodity sold, supplied, or delivered after the date of the fixing of that price or rate of profit in pursuance of a contract entered into before that date, unless the President certifies that, as regards any particular contract or class of contracts or any part of a contract or class of contracts, it is undesirable that such price or rate of profit should apply; and

Necessary Commodities Control Act, 1919 (Vic.), s. 12.

40 (2) the sale, supply, or delivery of any of such commodity sold, supplied, or delivered after the date of the fixing of that price or rate of profit in pursuance of a contract entered into after that date.

(7)

45

*Profiteering Prevention.*

(7) *Power to fix maximum charges for, and maximum rates of profit on, necessary services.*

**21.** (1) The President may by notice in the Gazette and in prescribed newspapers (if any) from time to time Power to fix maximum charges and rates of profit for or on necessary services. fix the maximum charges and rates of profit which shall be made for or on the supply of any necessary service, and in particular, and without limiting the generality of the power hereby conferred—

- 10 (a) may fix different maximum charges and rates of profit according to the nature of the service supplied ;
- (b) may fix different maximum charges and rates of profit for different parts of the State ;
- 15 (c) may fix any charge or rate of profit relatively to such standards of measurement, weight, capacity, distance, or otherwise as he thinks proper ;
- (d) may fix charges or rates of profit on the supply of any service according to or upon any principle or condition prescribed ;
- 20 (e) ~~may fix the maximum rate of profit which may be made in the business ;~~ and
- (f) may from time to time vary or revoke any rate previously fixed by him, but so as to apply only to future transactions.
- 25

(2) The President shall, in fixing charges or rates of profit under this section fix such charges or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

30

- (a) the average rate of profit made on the supply of such service during the year ending on the thirtieth day of June one thousand nine hundred and fourteen ;
- 35 (b) the difference between the respective rates of wages paid by employers supplying such service on such day and on the day on which the charge is fixed ; and
- (c) the difference between the respective prices of commodities used in the supply of such service on such day and on the day on which the charge is fixed.
- 40
- (a) the expenses of carrying on the business, including rent, rates, taxes, and contingencies ;

(b)

*Profiteering Prevention.*

(b) reasonable allowance for depreciation of assets due to wear and tear, obsolescence or other causes;

(c) any fluctuation in trade or in profits.

5 (3) Where the business mentioned in paragraph (c) of subsection one of this section is carried on by a corporation, the President shall, in fixing a maximum rate of profit under such paragraph (but without limiting the generality of his powers under this section) 10 have regard to the matters specified in subsection four of section seventeen.

(4) Such notice shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum 15 charge shall take effect.

~~(5) Nothing in this section shall affect the Railway Commissioners for New South Wales.~~

(8) *Power to acquire commodities.*

22. (1) The Governor may, upon the recommenda- 20 tion of the President—

(a) by proclamation published in the Gazette; or

(b) by notice given to any person or persons,

direct all or any persons who, whether as owners or otherwise, have in their possession or under their control 25 any specified necessary commodity to retain and hold the same, or a specified quantity thereof, for and on behalf of His Majesty.

(2) Upon the publishing of such proclamation or the giving of such notice the title to and property in 30 such commodity or quantity thereof shall be divested from the owners thereof and become vested in His Majesty freed from any charge thereon and from any claim, contractual or otherwise, and the holders or owners of the goods shall thereupon be discharged from any other 35 contractual engagements whatsoever in respect thereof; and the title and property of such owners shall be converted into a right to receive payment of the value of such commodity or quantity thereof as hereinafter provided.

(3) All such persons, and their agents and 40 servants, shall without delay, obstruction, or objection give immediate and peaceable possession of such commodity or quantity thereof to the Minister or to any person authorised by him to demand and take possession of the same.

Power of Governor to acquire a necessary commodity by proclamation or notice.

Property of former owner therein to vest in His Majesty.

Owners, &c., to give possession to Minister.

(4)

*Profiteering Prevention.*

(4) The production of any document or tele-  
gram purporting to be a demand or an authority to  
demand such commodity or quantity thereof, and to be  
signed or sent by the Minister or his Under Secretary,  
5 shall be sufficient authority for the delivery of the  
commodity or quantity thereof, to which such document  
or telegram relates.

Authority  
signed or  
purporting to  
be signed by  
Minister, &c.,  
to be  
sufficient  
authority for  
delivery.

(5) The owner of such commodity or quantity  
thereof shall be entitled to be paid therefor by the  
10 Minister either—

Payment of  
value of such  
commodity.

(a) at the price or rate of profit fixed by this Act  
in respect of such commodity; or

(b) where no price or rate of profit has been so  
fixed,—

15 (i) at such price as may be mutually agreed  
upon, or

(ii) in default of such agreement, at such price  
as may be determined by the President  
after hearing the parties concerned.

20 (6) In the event of any doubt or dispute arising  
as to the person legally entitled to receive any moneys  
payable under this section or as to any charge thereon  
or claim in respect thereof, the Minister may, in default  
of agreement between the parties concerned, pay the  
25 same into the office of the Master in Equity to abide such  
order as may be made by the Supreme Court in its  
equitable jurisdiction.

Payment in  
case of doubt  
or dispute  
into office of  
Master in  
Equity.

(7) Any person who, after the publishing of such  
proclamation or the giving of such notice,—

Penalties.

30 (a) attempts to dispose of or in any way deal with  
such commodity or quantity thereof to the  
prejudice of His Majesty's rights and powers  
under this section; or

35 (b) refuses to deliver, or delays, or obstructs the  
delivery as aforesaid of such commodity or  
quantity thereof,

shall be guilty of an offence against this Act, and shall  
be liable to a penalty not exceeding five hundred pounds  
or to imprisonment for a term not exceeding six months  
40 or to both penalty and imprisonment; or, if the offender  
be a corporation to a penalty not exceeding one thousand  
pounds.

(8)

*Profiteering Prevention.*

(8) Where any commodity has been acquired under the provisions of this section, the Minister may store, sell, or otherwise dispose of the same to such persons or bodies, and at such times, and in such manner, and upon such terms and conditions, as he may think fit.

Power of Minister to dispose of any commodity acquired under this section.

(9) *Power to secure sufficient supplies of commodities for home consumption.*

**23.** (1) If the Governor has reason to believe that any necessary commodity is being sent out of New South Wales in such quantities that a sufficient supply thereof will not or may not be available for home consumption at the fixed price, or, if no price has been fixed, at such price as he may deem reasonable in the circumstances, ~~may be determined by the President after hearing the parties concerned,~~ he may by proclamation published in the Gazette make such regulations and orders and give such directions as may be necessary to render available as aforesaid a sufficient supply of such commodity at such price, and to that end may act in conjunction with any other Government or authority.

Power to secure sufficient supplies of commodities for home consumption.

(2) Any person contravening any of the provisions of such proclamation shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding four hundred pounds, or to imprisonment for any term not exceeding twelve months; or, if the offender be a corporation, to a penalty not exceeding one thousand pounds.

(10) *Power to require returns of commodities or services to be furnished.*

**24.** (1) The Governor may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person having, or suspected of having, in his possession or under his control any specified necessary commodity, or being a supplier of any specified necessary service, to furnish to the Governor within the time fixed by such notice, a return in the specified form setting forth to the best of such person's knowledge and ability such particulars as are specified with respect to such commodity or service.

Power of Governor to require returns to be furnished.

(2)

*Profiteering Prevention.*

(2) Such notice may be either a notice given to such person individually or a notice to such persons generally and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

(3) Such returns shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

(a) fails to comply with any of the requirements of such notice; or

(b) wilfully furnishes any false or misleading return,

shall be guilty of an offence against this Act.

(11) *Power to require traders and others to adopt costing methods and to keep books and furnish records of cost and of capital invested.*

**25. (1)** ~~The President may, after consulting with assessors who possess an expert knowledge of accountancy and of the business of production, manufacture, distribution and sale, or of the supply of any necessary service, by notice in the Gazette and in prescribed newspapers (if any), require any person who is a producer, manufacturer, distributor, or seller of any specified necessary commodity, or who prepares the same for sale or distribution, and any or every person who supplies any necessary service, shall keep such~~ **books of account as will enable**

(a) ~~to adopt such methods as may be prescribed for ascertaining the cost of producing, manufacturing, distributing, or selling such commodity, or preparing the same for sale or distribution, and the cost of supplying such service to be ascertained;~~

(b) to keep in a prescribed manner and form—

(i) records of such cost;

(ii) records of the amounts of moneys placed to reserves and of capital subscribed, not called up, derived from profits, or otherwise

Power of President to require traders, &c., to adopt costing methods, and keep certain records.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 39.

Books to be kept by traders and others.

wise

*Profiteering Prevention.*

- wise invested, accumulated, used, or employed from time to time in the business, whether before or after the passing of this Act ;
- 5 (iii) records of manufacturing, trading, or other accounts on periodical bases either in respect of the business as a whole, or in respect of any department, division, or connected transactions of such business, or in respect
- 10 of any group of commodities sold or supplied therein ; and
- (iv) records showing what profits, gross and net, have been made over specified periods either
- 15 in respect of the business as a whole or in respect of any department, division, or connected transactions of such business, or in respect of any group of commodities sold or supplied therein, and how such profits have been distributed or otherwise dealt with.
- 20 (2) For the purposes of this section such assessors may exceed two in number.
- (3) (a) The President may by notice require any or every such person to furnish to the President within the time fixed by such notice any such record
- 25 verified by statutory declaration.
- (b) Such notice may be either a notice given to such person individually or a notice to such persons or a class of such persons generally, and such last-mentioned notice shall be published in the Gazette and
- 30 in prescribed newspapers (if any).
- (4) Every such person shall on demand for inspection by any person producing the authority in writing of the President produce any such record and allow such person to make copies or abstracts of such
- 35 record or of any entries therein.
- (5) The President may, whether the powers conferred upon him by subsection one of this section have been exercised by him or not, by notice require any such person to supply him within the time fixed by such
- 40 notice with particulars verified by statutory declaration of any of the matters specified in such subsection.

(4)



*Profiteering Prevention.*

(6) Records or particulars required to be kept, furnished, produced, or supplied under this section by any person shall in any proceeding under this Act be admissible in evidence against such person.

5 (7) Any person who—

(a) fails to comply with any of the requirements of this section; or

(b) wilfully keeps, furnishes, produces, or supplies any false or misleading record or particulars,

10 shall be guilty of an offence against this Act.

(12) *Power of President to act in conjunction with other bodies.*

**26.** The President may, in the exercise of any of his powers and duties under this Act, co-operate with any person or body appointed and acting under any Act of the Commonwealth or of any State having objects similar to the objects of this Act.

Power of President to co-operate with other bodies.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 26.

## PART IV.

## PARTICULAR OFFENCES.

20 **27.** (1) Any wholesale or retail trader who has in his possession or under his control any necessary commodity, and who fails—

(a) on demand of any quantity of such commodity; and

25 (b) on tender of payment at the fixed price or rate of profit for the quantity demanded,

to supply such commodity in such quantity, shall, subject to the provisions of this section, be guilty of an offence against this Act.

30 (2) Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question—

(a) the defendant supplied a reasonable quantity of such commodity; or

35 (b) the defendant was a wholesale trader in such commodity, and the person who demanded to be supplied was not a retail trader therein; or

(c) there existed special circumstances in the particular case which justified or excused the failure of the defendant to comply with the provisions of this section.

40

(3)

Failure to supply necessary commodity at fixed price.  
cf. Necessary Commodities Control Act, 1919, s. 14.

*Profiteering Prevention.*

(3) For the purposes of this section the President shall, in determining what is a reasonable quantity, have regard to all the circumstances of the case.

(4) Where a retail trader is prosecuted under this section, the defence that he supplied a reasonable quantity of such commodity shall be sufficiently established by proof that he supplied the person making the demand with a sufficient quantity thereof to meet the reasonable needs for one week—

- 10 (a) of himself and the members of his household ;  
and  
(b) if such commodity is of a kind generally used  
for animals, of all animals kept by him of the  
kinds for which such commodity is ordinarily  
15 used.

(5) For the purposes of this section, all persons who live with and in the same house as a person shall be deemed to be members of his household ; and animals shall be deemed to include birds.

20 **28.** (1) Any person who (whether as principal or agent or whether by himself or his agent)—

- (a) sells or supplies or offers to sell or supply any necessary commodity at a price higher than the fixed price ; or  
25 (b) charges or takes any sum for delivering any necessary commodity other than such sum (if any) as is fixed as a delivery charge in respect thereof—

Sales at prices higher than fixed price.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 13.

shall be guilty of an offence against this Act ; and in  
30 case of sale or supply or of delivery (as the case may be) shall, in addition to any penalty or imprisonment to which he is liable under this Act, be liable to refund to the purchaser the difference between the fixed price and the price at which the commodity was sold or supplied  
35 or (as the case may be) to refund to the person to whom delivery is made the difference between the fixed delivery charge and the sum actually charged or taken for delivering the commodity.

(2) Any person who (whether as principal or agent or whether by himself or his agent) sells or supplies or offers to sell or supply any of such commodity for such a price as yields to him a rate of profit which is greater  
40 than

Sales at rates of profit higher than fixed rate.

cf. *Ibid.* s. 14.

*Profiteering Prevention.*

than the fixed rate of profit with respect to such commodity shall be guilty of an offence against this Act, and shall in addition to any penalty or imprisonment to which he is liable under this Act be liable to refund to the  
 5 purchaser the amount overcharged :

Provided that where a delivery charge is also fixed, ~~but in no other case;~~ a sum not exceeding such delivery charge may be added to the selling price.

(3) Where the maximum rate of profit which  
 10 may be made in any business or in any department, profits in excess of the rate fixed for any department, &c., of a business.  
 division, or connected transactions of a business, or on any group of commodities sold or supplied therein, has been fixed, any person carrying on such business who makes a profit in excess of the rate so fixed shall be  
 15 guilty of an offence against this Act; and the amount of such excess may be recovered from such person as a debt due to His Majesty :

Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such excess  
 20 is relatively small and could not reasonably have been anticipated by the defendant.

**29.** In any prosecution for an offence under the last preceding section an invoice given or account rendered  
 25 by the defendant, or by some person with the express or implied authority of the defendant, for the necessary commodity in respect of which the offence is alleged to have been committed, or an offer in writing signed by the defendant or by some person on his behalf, to  
 30 sell or supply such necessary commodity at a specified price, shall be prima facie evidence of the sale or supply of or offer to sell or supply such necessary commodity, and of the price charged or to be charged therefor.

**30.** Any wholesale or retail trader who, whether by  
 way of premium or otherwise, purchases or offers to  
 35 purchase any necessary commodity at a price or rate of profit higher than the fixed price or fixed rate of profit shall be guilty of an offence against this Act.

**31.** (1) Any person, not being a bona fide wholesale  
 40 or retail trader or a bona fide consumer or user, who purchases or agrees to purchase or otherwise acquire (except by way of bona fide security only) any specified necessary commodity or any right or interest therein, shall be guilty of an offence against this Act, and the  
 45 commodity so purchased or agreed to be purchased or acquired shall be liable to forfeiture as hereinafter provided :  
 Provided

*Profiteering Prevention.*

Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such purchase or agreement had not the object nor the effect of increasing, directly or indirectly, the price of such commodity to the consumer or user.

(2) ~~Any person—~~

- 10 (a) who purchases or agrees to purchase or otherwise acquire any specified necessary commodity while the same is in transit to any market or place for the purpose of sale or distribution therein and who, while such commodity is still in transit, resells or agrees to resell at a profit the same or any part thereof; or
- 15 (b) who purchases or agrees to purchase or otherwise acquire any specified necessary commodity while the same is in any market or place for the purpose of sale or distribution therein, and who, while such commodity is still in such market or place, resells or agrees to resell at a profit the same or any part thereof; or
- 20 (c) who dissuades or attempts to dissuade any person from bringing or sending any specified necessary commodity to any market or place for the purpose of sale or distribution therein,
- 25 shall be guilty of an offence against this Act.

**32.** (1) Where any proceeding to fix the maximum price of or rate of profit on any necessary commodity, or the maximum charge for or rate of profit on the supply of any necessary service, has been instituted under this Act and is still pending, no person shall increase the price or rate of profit at which he sells such commodity or the charge or rate of profit made by him for the supply of such service, unless he shall first have given the President notice of his intention so to do and obtained permission or shown cause as hereinafter provided.

(2) Every such notice shall specify—

- 40 (a) the necessary commodity or the necessary service to which it relates;
- (b) the then current price or rate of profit or charge;
- (c) the proposed increased price or rate of profit or charge; and
- (d) such further particulars as may be prescribed.

(3)

*Profiteering Prevention.*

(3) The President shall, within fourteen days after the receipt of such notice, either—

- (a) notify such person that he permits such increase; or  
 5 (b) require such person to show cause why such increase should be allowed.

(4) Any person who increases such price or rate of profit or charge without first obtaining such permission or showing cause as aforesaid shall be guilty  
 10 of an offence against this Act.

**33.** (1) Any person who sells, offers, or exposes for sale, or supplies any necessary commodity knowingly represented by him, expressly or impliedly, to be of a particular description, make, origin, or quality shall, if  
 15 such commodity is of a different description, make, origin, or quality, be guilty of an offence against this Act.

(2) The President may by notice in the Gazette and in prescribed newspapers (if any) require wholesale and retail traders in a prescribed manner and form to  
 20 mark on or indicate with respect to any necessary commodity—

- (a) the description, make, origin, and quality thereof; and  
 25 (b) such further particulars in relation thereto as he may think fit.

Any person who fails to comply with any of the requirements of such notice shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds. For a second offence the  
 30 defendant shall be liable to a penalty not exceeding one hundred pounds, and for a third or subsequent offence to a penalty not exceeding two hundred pounds.

**33A.** Any retail trader who exhibits or otherwise offers for sale any necessary commodity at a price  
 35 denoted for the same shall on demand supply a purchaser with that commodity or with a similar commodity of equal quality and quantity at the price so denoted, and shall not attempt to substitute an inferior article therefor nor to raise the price above the price so denoted. Any  
 40 such trader committing a breach of this section shall be guilty of an offence against this Act.

**34.** (1) Every wholesale and retail trader in a necessary commodity and every person supplying a necessary service shall, where a maximum price or charge  
 45 has been or shall be from time to time fixed, within such time and in such manner as shall be prescribed, exhibit conspicuously on his business premises, and keep

*Profiteering Prevention.*

so exhibited, a printed or legibly-written list as published in the Gazette showing such fixed price or charge, and the commodity or service in respect of which it has been fixed, and such further particulars (if any) as shall be prescribed. Printed lists of such fixed prices or charges shall be made available by the Minister.

(2) Any person failing to comply with any of the provisions of this section shall be guilty of an offence against this Act.

10 **35.** Any producer, manufacturer, distributor, or seller, whether wholesale or retail, of any article of food or drink, who (by himself or by his agent or servant) destroys or casts away the same, shall be guilty of an offence against this Act:

Destruction of food or drink.

15 Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question such destruction or casting away was necessary.

20 **36.** Any person who is a supplier of any necessary service and who fails, without reasonable excuse, on tender of the fixed charge to supply such service or who demands or receives for such service a charge or rate of profit higher than the fixed charge or rate of profit, shall be guilty of an offence against this Act.

Excessive charges, &c., by suppliers of necessary services.  
cf. Necessary Commodities Control Act, 1919, s. 22.

25 **37.** Any wholesale or retail trader who sells any necessary commodity and any person who supplies any necessary service, and who in either case fails, on demand by the purchaser or recipient of the service, as the case may be, to furnish to such purchaser or recipient a

Right of purchaser, &c., to demand docket or receipt from trader, &c.

30 docket receipt or ticket showing clearly—

(1) the commodity sold or the service supplied and the date of such sale and the supply of such service;

(2) the price paid on the sale of such commodity or the charge paid for such service,

35 shall be guilty of an offence against this Act.

**37A.** Any producer, manufacturer, distributor, or seller, whether wholesale or retail, of any article of food or drink, who (being in the possession of the same for purposes of sale) by himself or by his agent or servant destroys or casts away the same, shall be guilty of an offence against this Act:

Destruction of food or drink.

40 Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question such destruction or casting away did not raise or tend to raise the price of a similar article to the public.

**38.**

*Profiteering Prevention.*

- 38.** Any person who—
- (a) gives, confers, or procures, or promises, or offers to give, confer, or procure any property, or benefit of any kind to, upon, or for any person upon any agreement or understanding that any person called, or to be called, as a witness in any proceeding under this Act shall give false testimony or withhold true testimony; or
- (b) by any means induces a person called, or to be called, as a witness in any such proceeding to give false testimony or to withhold true testimony; or
- (c) asks for, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall, as a witness in any such proceeding, give false testimony or withhold true testimony,
- shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.
- 39.** Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any such proceeding, with intent to affect the testimony of that person as a witness, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.
- 40.** Any person who, knowing that any book, document, or writing is or may be required in evidence in any such proceeding, wilfully destroys it, or renders it illegible or undecipherable, or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.
- 41.** Any person who wilfully prevents any person who has been summoned to attend as a witness in any such proceeding from attending as a witness, or from producing any evidence pursuant to the summons to attend, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.
- 42.** Any person who uses, causes, inflicts, or procures any violence, punishment, loss, or disadvantage to any person

Bribing of witness.  
cf. *Ibid.* s. 24.

Fraud on witness.  
cf. *Ibid.* s. 25.

Destroying books or documents.  
cf. *Ibid.* s. 26.

Preventing witness from attending.  
cf. *Ibid.* s. 27.

Injury to witness.  
cf. *Ibid.* s. 28.

*Profiteering Prevention.*

person for or on account of his having appeared as a witness in any such proceeding, or for or on account of any evidence given by him therein, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

**43.** (1) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of such employee's having appeared as a witness or given evidence in any such proceeding shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Dismissal by employers of witness.  
cf *Ibid.*, s. 29.

(2) In any proceeding for an offence against this section it shall lie upon the employer to prove that any employee shown to have been dismissed from or prejudiced in his employment was so dismissed or prejudiced for some reason other than a reason mentioned in subsection one of this section.

**43A.** If any person at or for the purpose of any proceeding under this Act knowingly or recklessly furnishes any information or makes any representation which is false in any material particular he shall be guilty of an offence under this Act and liable on conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

## PART V.

## PENALTIES AND FORFEITURES.

(1) *Penalties.*

**44.** (1) Any person guilty of an offence against this Act shall, except where this Act otherwise provides, be liable—

Penalties, except where otherwise provided.

(a) for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding three months, or, if the offender be a corporation, to a penalty not exceeding two hundred pounds: Provided that the President or magistrate may, if satisfied that such first offence was due to inadvertence, impose a nominal penalty only; and

(b)



*Profiteering Prevention.*

(b) for a second or subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for any term not exceeding six months or to both, or if the offender be a corporation, to a penalty not exceeding five hundred pounds.

(2) Any person charged with a third or subsequent offence against the provisions of sections eleven, fifteen, ~~twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, or thirty-six, fifty-nine, sixty, or sixty-one~~ shall be liable to be proceeded against on indictment before ~~the Supreme Court~~, and if convicted of such offence, shall be liable to ~~penal servitude a penalty of not less than fifty nor more than five hundred pounds or to imprisonment for a term not exceeding five years of not more than twelve months or to both.~~

If the offender be a corporation, such corporation shall be liable to be proceeded against before the Supreme Court for the recovery of a penalty not ~~exceeding one thousand pounds less than one hundred nor more than three thousand pounds~~; and, in addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

**45.** Where a person convicted of any offence against this Act is a corporation the chairman and every managing director and every officer concerned in the management of the corporation shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

Offence by corporation to be deemed an offence, prima facie, by the chairman, each director and officer.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 34.

**46.** If two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty or imprisonment or both provided by this Act, and the liability of each of them shall be independent of the liability of the others.

Each of two or more persons responsible for same offence to be liable.  
cf. *Ibid.*

**47.** Any agent, employee, or other person acting for another who knowingly takes part in or is in any way privy to doing any act or thing without authority which if authorised would be an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

Offence by agent, employee, &c.  
cf. *Ibid.*

*Profiteering Prevention.*

- 48.** Every person who in ~~New South Wales~~ aids, abets, counsels, procures, or connives at, or by any act or omission is in any way directly or indirectly concerned in or privy to—
- 5 (a) the commission of any offence under this Act ;  
or  
(b) the doing of any act outside New South Wales which if done in New South Wales would be an offence under this Act—
- 10 shall be deemed to have committed that offence and shall be punishable accordingly.
- 49.** (1) Any inspector or member of the police force or party aggrieved may, except where this Act otherwise provides, institute proceedings—
- 15 (a) in respect of offences committed within the Metropolitan, Newcastle, and Wollongong police districts constituted under Part III of the Justices Act, 1902, before the Chief Industrial Magistrate or his deputy ; and
- 20 (b) in respect of offences committed within other police districts before a stipendiary or police magistrate at the court in or nearest to the place where the defendant resides,
- for the recovery in a summary way under the Justices Act, 1902, of any penalty, or for the awarding of any imprisonment, imposed by this Act or by any regulation made thereunder.
- (2) Any defendant convicted before a magistrate of an offence against this Act may appeal to the
- 30 President against such conviction, and any inspector, member of the police force, or party aggrieved by any order of a magistrate dismissing any proceeding instituted under this Act may, with the consent of the Minister, appeal to the President against such order.
- 35 (3) An appeal against such conviction or order shall be in the nature of a rehearing, and upon such appeal the President may—
- (a) affirm, vary, or set aside such conviction or order ; and
- 40 (b) impose any penalty or award any imprisonment authorised in the particular case by this Act.
- (4)**.

Aiding and abetting offences against this Act.

cf. *Ibid.* s. 35.

Recovery of penalties, &c. cf. Necessary Commodities Control Act, 1919, s. 32.

*Profiteering Prevention.*

(4) The President may make rules for the institution of, and the procedure on, appeals under this section.

Notwithstanding anything contained in this Act the powers of the President under this section shall not be exercisable by an auxiliary judge who is not a barrister or solicitor.

*(2) Forfeitures.*

- 10 **50.** If the President is satisfied that any person—
- (1) is buying up or storing or is retaining in his possession or under his control any necessary commodity in breach of the provisions of section eleven; or
- 15 (2) has in his possession or under his control any such commodity, and has failed, on demand and tender of the fixed price, to supply in accordance with the provisions of section twenty-seven any particular person or persons with such commodity; or
- 20 (3) not being a bona fide wholesale or retail trader or a bona fide consumer or user has purchased or agreed to purchase or acquire any such commodity in breach of the provisions of subsection one of section thirty-one,
- 25 the President may recommend to the Governor that such commodity be forfeited. The Governor may thereupon by notice in the Gazette order that the whole of such commodity, or such quantity thereof as is specified in such notice, be forfeited to the Crown.
- 30 **51.** When any necessary commodity has been so forfeited, it shall be lawful for any inspector or any member of the police force or any person thereunto authorised in writing by the Minister—
- 35 (a) to seize any commodity which he has reasonable cause to believe is forfeited under this Act;
- (b) to store the same in any place provided by the Minister for the purpose; and
- 40 (c) to sell or otherwise dispose of the same to such persons or bodies and at such times and in such manner and upon such terms and conditions as the Minister may direct, or as may be prescribed.
- 52.**

Forfeiture of  
necessary  
commodities.  
of. *Ibid.* s. 17.

Seizure and  
disposal of  
forfeited  
commodities.  
of. *Ibid.* s. 18.

*Profiteering Prevention.*

**52.** When any necessary commodity is seized under this Act the person who was the owner thereof prior to the forfeiture shall be entitled to be paid therefor by the Minister at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the Minister President deems reasonable in the circumstances, after deducting in either case—

Payment to former owner of fixed price, less certain deductions.  
cf. *Ibid.* s. 19.

- 5  
10  
15  
20
- (a) the amount of any penalties imposed on such person in any proceedings under this Act, whether in respect of the goods so seized or otherwise, and the amount of any costs awarded against him in such proceedings, or so much of such amounts as have not already been paid; and
  - (b) the costs and expenses of any application to the President for a recommendation of forfeiture, whether in respect of the necessary commodity so seized or any other necessary commodity; and
  - (c) the costs and expenses of searching for, seizing, storing, and selling or otherwise disposing of such commodity.

**53.** Any inspector or member of the police force or person thereunto authorised in writing by the Minister may at any time in the day or night enter into and search any premises or vessel or part thereof, where any necessary commodity forfeited or liable to seizure under this Act is, or is supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises or vessel or part, and may break open and search any chests, trunks, packages, or other things in which any such commodity is or is supposed to be.

Power to search for necessary commodities.  
cf. *Ibid.* s. 20.

*(3) Compulsory sales in lieu of forfeitures.*

**54.** (1) In any of the cases mentioned in section fifty the President may, in lieu of recommending a forfeiture, by notice require any person, who is the owner of or has in his possession or under his control any specified necessary commodity, to sell the same, or a specified quantity thereof, within a specified time, and in the manner hereinafter provided.

Power of President, in lieu of recommending the forfeiture of a commodity, to require owner, &c., to sell the same.

(2)

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*Profiteering Prevention.*

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- (2) Such sale shall be—
- (a) where such person is a wholesale trader, a bona fide sale direct to a retail trader or traders or to a consumer or consumers ; and
  - 5 (b) where he is a retail trader, a bona fide sale direct to a consumer or consumers.
- (3) Such sale shall be at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President may deem reasonable
- 10 in the circumstances.
- (4) Any person failing to sell as aforesaid shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds for every day after the expiry of the specified time during
- 15 which such default continues :
- Provided that in any prosecution under this section it shall be a sufficient defence to show—
- (a) that the failure to sell was not due to any act or omission on the part of the defendant or of
  - 20 (b) that there existed special circumstances justifying or excusing such failure to sell.

*Profiteering Prevention.*

## PART VI.

## SUPPLEMENTARY AND GENERAL.

**55.** The President shall for the purposes of any investigation, inquiry, or proceeding under this Act have all such powers, rights, and privileges as are vested in the Supreme Court, or in any judge thereof, on the occasion of any action or trial in respect of—

Powers of President for purposes of an inquiry.  
cf. *Ibid.* s. 30.

- 10 (a) the compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration;
- (b) the compelling the production of books, documents, and writings;
- 15 (c) the compelling witnesses to answer questions which the President deems to be relevant to the inquiry;
- (d) the punishing persons guilty of contempt or of disobedience of any order or summons made or issued by the President; and
- 20 (e) the directing witnesses to be prosecuted for perjury.

**56.** A summons signed by the President may be issued for enforcing the attendance of witnesses or compelling the production of books, documents, and writings. If any person having been served with such

25 summons fails to appear, the President may issue a warrant authorising such person to be apprehended and brought before him.

Summons for attendance of witness or production of documents.  
cf. *Ibid.* s. 31.

**57.** (1) The President in the exercise of any of his powers or duties shall not (except on the hearing of an

30 appeal under section forty-nine of this Act) be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct his proceedings and inform his mind on any matter in such manner as he thinks proper, and without limiting in any way the

35 operation of this section the President may refer any technical matter to an expert and may accept his report as evidence.

Commission not to be bound by rules as to procedure or evidence.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 24.

(2) The President may, in his discretion, limit the number of witnesses who may be called on any

40 particular issue by a party to any proceeding, other than a prosecution for an offence against this Act. **58.**

*Profiteering Prevention.*

**58.** A statement or disclosure made by any witness in answer to any question put to him in any prosecution under this Act shall not (except in a proceeding for an offence against this Act, or in a prosecution for perjury) be admissible in evidence against him in any civil or criminal proceeding in any court.

Statements made by witness not admissible in evidence against him. cf. *Ibid.* s. 27.

**59.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, require any wholesale or retail trader in any necessary commodity and any supplier of any necessary service to produce for examination by any person who has the authority in writing of the President, and at any time and place fixed by the President, any books, documents, and writings in his possession or under his control which may be deemed by the President to be necessary for the purpose of obtaining information in respect of any matters coming within the scope of this Act. Such trader or supplier shall when required by the person so appointed allow him to make copies or abstracts of any such books, documents, and writings so produced, or of any entries therein.

Power of President to require production of books, &c., to person appointed in that behalf.

(2) Any such trader or supplier who refuses or fails to comply with any requirement made under this section shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

**60.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person who is a producer, manufacturer, distributor, or seller (whether wholesale or retail) of any specified necessary commodity, or is a supplier of any specified necessary service, to furnish to the President or to any person authorised by the President in that behalf, and within a specified time and in a specified form, a return setting forth to the best of such person's knowledge and ability the following particulars or such of them as may be specified in such notice, namely—

Power of President to require returns of quantities, costs, prices, charges, &c.

(a) the quantity of any specified commodity in his possession or under his control at the date of such notice ;

(b)

*Profiteering Prevention.*

- (b) the cost to such person of such commodity ;  
 (c) the prices, wholesale and retail, at which he  
 sells or proposes to sell such commodity ;  
 5 (d) the cost to such person of the supply of such  
 service ;  
 (e) the charges which he makes or proposes to  
 make for the supply of such service ;  
 (f) the methods and principles in accordance with  
 which he arrives at such costs, prices, and  
 10 charges ; and  
 (g) such further particulars as may be specified in  
 such notice.

(2) Such notice may be either a notice given to  
 such person individually or a notice to such persons or a  
 15 class of such persons generally ; and such last-mentioned  
 notice shall be published in the Gazette and in prescribed  
 newspapers (if any).

(3) Such return shall be verified by statutory  
 declaration.

20 (4) Any return furnished by any person under  
 this section shall in any proceeding under this Act be  
 admissible in evidence against such person.

(5) Any person who—

- 25 (a) fails to comply with any of the requirements  
 of such notice ; or  
 (b) wilfully furnishes any false or misleading return,  
 shall be guilty of an offence against this Act.

**61.** (1) Any inspector may, with the authority in Powers of  
 writing of the President, whether an investigation or inspectors  
 30 inquiry under this Act has been instituted or not—

- (a) enter upon the premises of any person having,  
 or suspected of having, in his possession or  
 under his control any necessary commodity, or  
 being a supplier of any necessary service ;  
 35 (b) require such person to give to such inspector  
 full and accurate information as to—  
 (i) the quantities of such commodity in such  
 person's possession or under his control and  
 the cost to such person of such commodity ;  
 40 and

(ii)



*Profiteering Prevention.*

- (ii) the prices or rates of profit, wholesale and retail, at which such person is selling such commodity; and
- 5 (iii) the charges which such person is making for the supply of such service; and
- (c) require such person to produce for examination by such inspector all books, documents, and writings relating to such commodity or service and to allow such inspector to make copies or
- 10 abstracts of such books, documents and writings or of any entries therein.

(2) If such person refuses to allow such inspector to enter upon his premises, or refuses or fails to give such information or to produce such books, documents,

15 and writings, or to allow such copies or abstracts to be made, or knowingly gives false or misleading information, he shall be liable in each case to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after

20 the first during which such refusal or default continues.

**62.** The President may impound or retain any book, document, or writing produced to him or to any person appointed as aforesaid, but the person otherwise entitled to such book, document, or writing shall in lieu thereof be

25 entitled to a copy certified as correct by the President, and such certified copy shall be receivable in all courts as evidence and as of equal validity with the original. And until such certified copy is supplied, the President may, at such times and places as he shall think proper,

30 permit such person, or in the case of a corporation any person appointed by the corporation, to inspect and make copies or abstracts of the book, document, or writing so impounded or retained or of any entries therein.

Power of  
President to  
impound  
books, &c.

35 **63.** Any proclamation or notice issued or given under this Act, and published in the Gazette, and the contents of such proclamation or notice may be proved in any court by the production of—

Proof of  
proclamations  
and notices  
and contents  
thereof.

- 40 (a) a copy of the Gazette purporting to contain such proclamation or notice; or
- (b) a copy of such proclamation or notice purporting to be printed by the Government Printer.

*Profiteering Prevention.*

**64.** (1) The publication of a proclamation or notice in the Gazette shall be conclusive evidence in any court—

Gazette notice to be conclusive evidence in certain cases. cf. Necessary Commodities Control Act, 1919, s. 33.

- 5 (a) that the fixed price of or fixed rate of profit on any commodity, or the fixed charge for or rate of profit on any service, as therein appearing has been duly and lawfully fixed ;
- (b) that the commodity or service is a necessary commodity or service ; and
- 10 (c) that all steps necessary for the fixing of such price or rate of profit or charge have been duly taken in accordance with the provisions of this Act.

(2) It shall not be competent for any person or  
15 court by any means whatever to question the legality or correctness of such fixed price or rate of profit or charge, or whether any commodity, the fixed price of or rate of profit on which is declared in such notice is a necessary commodity or whether any service for the  
20 supply of which a fixed charge or rate of profit is therein declared is a necessary service.

**65.** (1) The President may by notice published in the Gazette and in prescribed newspapers (if any)—

Power of President to require certain particulars to be marked on commodities, and to require the registration of marks.

- 25 (a) require sellers, both wholesale and retail, of necessary commodities (whether the price thereof or rate of profit thereon has been fixed or not) to mark thereon in a prescribed manner the date of purchase, the cost price, and the selling price thereof, and such other information as may be prescribed ; and
- 30 (b) require the registration in a prescribed manner of letters, cyphers, or marks used by such sellers in connection with such commodities.

- (2) Any person who—
- 35 (a) fails to comply with any of the requirements of such notice ; or
- (b) wilfully uses any false or misleading letter, cypher, or mark,

shall be guilty of an offence against this Act and shall  
40 be liable to a penalty not exceeding fifty pounds.

For

*Profiteering Prevention.*

For a second offence the defendant shall be liable to a penalty not exceeding one hundred pounds, and for a third or subsequent offence to a penalty not exceeding two hundred pounds.

- 5 **66.** (1) So far as such publication is deemed by the President to be expedient in the public interest it shall be lawful for him from time to time to publish in such manner as he thinks fit any information obtained in the course of any investigation, inquiry, or proceeding under  
 10 this Act, and any report, findings, recommendations, or comments made with respect thereto by the President, Commissioner, person, or magistrate before whom such investigation, inquiry, or proceeding takes place.
- 15 (2) The publication of any such matter by the President and the republication by any other person of any matter published by the President or of any part of such matter shall be absolutely privileged, and the matter so published or republished shall be a lawful subject of comment within the meaning of the law of  
 20 defamation, and no action shall be brought by any person for the publication or republication of such matter, whether on the ground of defamation or otherwise.
- 25 **67.** Any person who in any way resists, interferes with, hinders, or obstructs any inspector or other officer or person in the exercise or discharge of any power or duty under this Act shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds.
- 30 **68.** Any person, or agent or servant of such person, who, without lawful excuse, reveals any matter or thing which has come to his knowledge in the course of the exercise by him of any power or authority conferred by this Act or, as the case may be, in his capacity of agent or employee of such person, shall be liable to a penalty  
 35 not exceeding two hundred pounds.
- 69.** (1) If in the opinion of the President any question of law arises in the course of any proceeding under this Act the President shall, if any party to such proceeding so desire, state a case for the determination  
 40 of that question of law by the Supreme Court.

Power of President to publish information derived in course of judicial inquiry or investigation.  
 cf. Board of Trade Act, 1919 (N.Z.), s. 24.

Resisting obstructing inspectors, &c.  
 cf. Necessary Commodities Control Act, 1919, s. 35.

Revealing information without lawful excuse.

Submission of questions of law to Supreme Court.  
 cf. *Ibid.* s. 37.

(2)

*Profiteering Prevention.*

(2) The determination of the Supreme Court shall be binding upon the President and upon all parties to such proceeding.

**70.** No action shall lie against any person for any act or thing done by him under any authority conferred or purporting to be conferred upon him by or under this Act.

Freedom from liability.  
cf. *Ibid.* s. 34.

**71.** (1) The Governor may from time to time make regulations for carrying out the provisions and objects of this Act, and for prescribing the procedure thereunder.

Power to make regulations.  
cf. *Ibid.* s. 38.

(2) Any such regulation may impose any penalty not exceeding twenty pounds for each breach of the same, or, where the breach is a continuing one, any further penalty not exceeding five pounds for every day after the first during which such breach continues.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

**72.** Nothing in this Act shall apply to the sale or supply of any necessary commodity for export from New South Wales or to the sale or supply of any necessary commodities by public auction or competitive tender.

Saving as to export, &c.

**73.** This Act shall be in force until the thirty-first day of December, one thousand nine hundred and twenty-two.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

W. S. MOWLE,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 18 November, 1920, A.M.*

## **New South Wales.**



ANNO UNDECIMO

# GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1920.

An Act to prevent undue profit-taking ; to provide for the control and acquisition of necessary commodities and the control of necessary services ; to obtain information as to the operations of trusts and other associations ; to prevent unfair methods of trade competition ; to promote co-operative enterprise ; to amend the Acts relating to Industrial Arbitration ; to repeal the Necessary Commodities Control Act, 1919 ; and for purposes consequent thereon or incidental thereto.

*Profiteering Prevention.*

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Profiteering Prevention Act, 1920," and is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 2-4.

**10** PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—*ss.* 5-9.

PART III.—JURISDICTION—*ss.* 10-26.

PART IV.—PARTICULAR OFFENCES—*ss.* 27-43.

PART V.—PENALTIES AND FORFEITURES—*ss.* 44-54.

**15** PART VI.—SUPPLEMENTARY AND GENERAL—*ss.* 55-71.

PART I.

PRELIMINARY.

**2.** This Act shall not apply to the Crown or to any department of His Majesty's Government, or to any shire or municipal council, or to the Municipal Council of Sydney, or to the Commissioner for Railways and Tramways, or to the Metropolitan Board of Water Supply and Sewerage, or to the Hunter District Board of Water Supply and Sewerage, or to any statutory body representing the Crown.

**3.** (1) The Necessary Commodities Control Act, 1919, is hereby repealed, except as to things done or commenced and offences committed before the passing of this Act, which shall respectively be continued and dealt with under this Act.

(2) All rules, regulations, orders, directions, and notices made or given under the authority of the said Act and in force at the commencement of this Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made or given under the authority of this Act.

**4.**

*Profiteering Prevention.*

- 4.** In this Act, except where the context or subject-matter otherwise indicates or requires,—
- “Board of Trade” means the “New South Wales Board of Trade” as constituted by the Industrial Arbitration (Amendment) Act, 1918.
- “Commissioner” means a Commissioner of the Board of Trade.
- “Corporation” includes a public company.
- “Fixed charge” means the charge fixed and declared by the President to be the maximum charge which may be demanded or received for the supply of any necessary service.
- “Fixed price” means the price fixed and declared by the President to be the maximum price which may be demanded or received on the sale of any necessary commodity.
- “Fixed rate of profit” means the rate of profit fixed and declared by the President to be the maximum rate of profit which may be demanded or received on the sale of any necessary commodity or the supply of any necessary service.
- “Inspector” means an inspector appointed under this Act.
- “Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor.
- “Necessary commodity” or “commodity” means any of the following:—
- (a) coal, firewood, coke, kerosene, petrol, or other fuel;
  - (b) any article of food or drink for man or for any domesticated animal;
  - (c) any article of clothing or apparel for man, including hats, footwear, and haberdashery;
  - (d) any article made of wool, linen, or cotton, or partly of one and partly of another;
  - (e) fertilisers;
  - (f) any article which enters into or is used in the composition or preparation of any of the foregoing commodities;
  - (g) agricultural implements;
  - (h)

Interpretation.

cf. Necessary Commodities Control Act, 1919, s. 5.

*Profiteering Prevention.*

- (h) tools of trade ;  
 (i) seeds for sowing ;  
 (j) any article of furniture ;  
 (k) any building material ;  
 5 (l) drugs, proprietary medicines, medical instruments, chemicals, disinfectants, soaps, and toilet requisites ;  
 (m) oils ; and  
 10 (n) any commodity which the Governor, upon the recommendation of the President, declares in the Gazette to be a necessary commodity.
- “ Necessary service ” or “ service ” means any of the following :—  
 15 (a) the supply of gas or electricity for lighting, heating, cooking, or industrial purposes ;  
 (b) the supply of water for human consumption or for domestic or industrial purposes ;  
 (c) the carriage of goods by land or sea ;  
 20 (d) the carriage of persons by ferry ;  
 (e) refrigeration and cool storage ;  
 (f) the burial of the dead ; and  
 (g) any service which the Governor, upon the recommendation of the President, declares  
 25 in the Gazette to be a necessary service.
- “ Person ” includes any association or combination of persons, whether incorporated or unincorporated.
- 30 “ President ” means President of the Profiteering Prevention Court established by this Act.
- “ Prescribed ” means prescribed by this Act or by any regulation, proclamation, order, or notice made or given thereunder.
- 35 “ Retail ” shall be deemed to refer to the sale to a person for the purpose of consumption or use ; and “ retail trader ” has a corresponding interpretation.
- 40 “ Specified ” means specified by notice in the Gazette or by notice to a particular person or persons.

“ Vessel ”



*Profiteering Prevention.*

"Vessel" includes any ship, lighter, barge, boat, raft, or craft of whatever description and however navigated or propelled.

5 "Wholesale" shall be deemed to refer to the sale or supply to a person for the purpose of resale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer, or producer to a wholesale or retail trader); and "wholesale trader" has a corresponding interpretation.

10

## PART II.

## AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

5. (1) For the purpose of administering and enforcing this Act there is hereby constituted a court to be known as the "Profiteering Prevention Court."

(2) The President of the Board of Trade shall be the Judge of the said Court, and shall, when exercising his functions under this Act, be styled "President of the Profiteering Prevention Court."

20 (3) (a) The Governor may appoint one or more Judges of the Court of Industrial Arbitration or District Court or any person or persons (not exceeding two in number) as an Auxiliary Judge or as Auxiliary Judges of the Profiteering Prevention Court.

25 (b) Any such person so appointed shall be appointed in the first instance for a term of five years, and shall receive a salary of one thousand five hundred pounds per annum.

30 (c) An Auxiliary Judge shall exercise any functions committed to him by the President, which the President may exercise under this Act, and for such purposes shall have the powers of the President under this Act.

*Profiteering Prevention.*

(4) In the event of and during the absence, <sup>Deputy</sup> from whatever cause, of the President, the Governor <sup>President.</sup> may appoint an Auxiliary Judge or, if there be no such judge available, the Deputy President of the Board of Trade to be the Deputy President of the Profiteering Prevention Court and to exercise the functions of the President under this Act.

(5) Judicial notice shall be taken of the signatures of the President, Deputy President, and Auxiliary Judge or Judges of the said Court.

6. (1) The President may himself hold any investigation or inquiry under this Act or may refer to the Deputy President of the Board of Trade or to any Commissioner thereof or, with the approval of the Minister, to any other person the conduct of any investigation or inquiry which the President has power to hold under this Act, and may fix the time and place, whether in Sydney or elsewhere in New South Wales, for the holding of the same.

Power to refer to Commissioner or other person conduct of investigation or inquiry.

(2) For the purposes of such reference such Deputy President, Commissioner or person shall have the powers of the President under this Act.

7. (1) The President may, or, for the purposes of such reference, such Commissioner or person may, have associated with him persons (hereinafter referred to as "assessors") possessing special expert or business knowledge:

Assessors.

Provided that there shall not be more than two assessors for each investigation or inquiry.

(2) Every such assessor—

- (a) shall be appointed by the Minister;
- (b) shall hold office during the pleasure of, and may be removed from office by, the Minister;
- (c) shall be entitled to such remuneration for his services and such travelling allowance as the Minister may from time to time determine; and

(d) shall sit with the President or such Commissioner or person, as the case may be, in an advisory capacity in any matters connected with such investigation or inquiry.

*Profiteering Prevention.*

**8.** (1) Such Commissioner or person shall, upon the completion of such investigation or inquiry, forward to the President, with such recommendations as he may think fit to make, a detailed report of the same Report by Commissioner or other person to President.  
**5** together with the oral and documentary evidence received in the course thereof. Any assessor, if he does not agree with such recommendations, may forward to the President a separate report stating his reasons for dissenting therefrom and making such other recommendations as **10** he may think fit.

(2) The President shall proceed to consider such reports and recommendations, and may, with or without hearing further evidence, act upon the same as if such investigation or inquiry had been held in the first **15** instance by himself.

**9.** The Governor may appoint a secretary to the President and such other officers as the Governor thinks necessary, who shall hold office during the pleasure of the Governor. Such secretary and other officers shall, Appointment of secretary and other officers.  
**20** subject to the provisions of any award or industrial agreement, receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

25

## PART III.

## JURISDICTION.

(1) *Power to investigate and inquire into the operations of trusts, &c.*

**10.** (1) Without prejudice to the generality of his Power to investigate and inquire into the operations of trusts, &c. cf. Imperial Profiteering Act, 1919.  
**30** powers under this Act the President shall investigate and inquire into the nature, extent, development, and operations of trusts, companies, firms, combinations, agreements, and arrangements connected with mining, manufactures, trade, commerce, finance, carriage, or transport

*Profiteering Prevention.*

transport in order to ascertain whether their purpose or effect is the regulation of the prices or output of commodities or services produced or supplied in New South Wales or imported into New South Wales, or the de-  
 5 limitation of markets in respect thereof, or the regulation of transport rates and services in so far as they tend to the creation of monopolies or to the restraint of trade, or to the abuse of a power to control trade; and the President shall for the purposes of this section utilize  
 10 the powers of investigation or inquiry conferred upon him by this Act.

(2) This section shall operate and have full force and effect whether or not maximum prices, rates of profit, or charges have been fixed under this Act.

15 (3) The President shall from time to time forward to the Governor a report embodying any information acquired by him under the provisions of this section, and any recommendations based thereon which he may think fit to make.

20 (2) *Power to prevent cornering and unfair methods of trade competition and discrimination.*

**11.** Any person who buys up or stores or retains in his possession or under his control any necessary commodity, whether the maximum price thereof or maximum rate  
 25 of profit thereon has or has not been fixed under this Act, with intent to raise the price thereof or to restrain trade therein, shall be guilty of an offence against this Act, and such commodity shall be liable to forfeiture as hereinafter provided.

Corners and restrictions on circulation of commodities.  
 cf. Necessary Commodities Control Act, 1919 (Vic.), s. 18.

30 **12.** (1) If the President has reason to believe —

(a) that any person is using any unfair method of competition or discrimination in trade in any necessary commodity; and

Unfair methods of trade competition and discrimination.

35 (b) that a proceeding by him in respect thereof will be to the interest of the public,

he may serve upon such person a complaint stating his charges in that respect, and calling upon such person to show cause why he should not be ordered to cease from using such unfair method. Such complaint shall fix a  
 40 hearing for a day not less than thirty days after the service of such complaint. (2)

*Profiteering Prevention.*

(2) Such person shall be entitled on the hearing to show cause why an order should not be made by the President requiring him to cease from using the unfair method charged in such complaint.

5 (3) Any other person may apply, and on good cause shown may be allowed by the President, to intervene and appear on such hearing.

(1) If upon such hearing the President is satisfied that the method so charged is unfair, he shall  
10 make a report in writing in which he shall state his findings as to the facts, and shall cause to be served on such person an order requiring him to cease within a specified time from using such unfair method.

(5) If such person fails to obey such order he  
15 shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds (and to a further penalty not exceeding fifty pounds for every day after the first during which such failure continues) or to imprisonment for a term not exceeding  
20 six months. If the offender be a corporation, such corporation shall be liable to a penalty not exceeding five hundred pounds and to a further penalty not exceeding one hundred pounds for every day after the first during which such failure continues; and, in  
25 addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

(6) Such person may within fourteen days after  
30 the day upon which such order is made appeal therefrom to the Supreme Court by filing in such Court a notice of appeal.

(7) Notwithstanding the filing of such notice of  
35 appeal such order shall continue to have full force and effect.

(8) Upon the filing of such notice of appeal the Court shall have jurisdiction over the proceeding, and may make a decree or order affirming, varying, or setting aside the order of the President.

40 (9) The Court may make rules as to proceedings before it under this section.

*Profiteering Prevention.**(3) Power to recommend the taxation of excess profits.*

**13.** (1) In any case in which the President finds that the price or profit on the sale of any necessary commodity, or the price or profit at any stage of the production, manufacture, or distribution of the same, or the profit on the supply of any necessary service is, or has been for any period since the first day of January, one thousand nine hundred and fifteen, excessive or unreasonable, he shall forward to the Governor a report embodying such finding, and the facts and circumstances upon which he bases the same.

Power to recommend taxation of excess profits in lieu of fixing prices, &c.

(2) If the Governor shall so require, the President shall, in respect of any prices or profits referred to in any such report, proceed to inquire and report what selective tax upon the profits made on the sale of such commodity or at any stage of the production, manufacture, or distribution thereof, or on the supply of such service, would deprive the person making such profits of any excessive or unreasonable benefit or advantage; and, where such profits are made in respect of a sale, production, manufacture, distribution, or supply outside the State, what person or persons within the State should be deemed, for the purposes of taxation, to be the agent or agents of the person engaged in such sale, production, manufacture, distribution, or supply, and deriving such benefit or advantage.

(3) The Governor may from time to time require the President to hold investigations and inquiries with regard to any specified commodity or group of commodities, or with regard to any specified service, for the purpose of giving effect to the powers and performing the duties committed to the President by this section.

*(4) Power to promote co-operative enterprise.*

**14.** (1) In order to encourage the creation of a system of checks by popular action upon the undue raising of prices, profits, or charges in respect of the sale of any necessary commodity or the supply of any necessary service, the Board of Trade shall forthwith proceed to acquire

Power of Board of Trade to encourage and establish societies for co-operative enterprise.

*Profiteering Prevention.*

acquire and disseminate knowledge of the principles and practice of co-operative enterprise, and may from time to time, with a view to the reduction of the average cost of living, report to the Governor on and  
5 propound schemes for—

- (a) the promotion and assistance of co-operative enterprise for the wholesale and retail supply of necessary commodities or the supply of necessary services ;
- 10 (b) the constitution of co-operative societies, co-operative banks, and credit unions for such purposes ; and

(c) the conditions upon which a co-operative society, bank, or union shall carry on business.

15 (2) The Governor may on prescribed conditions, authorise the payment out of the Consolidated Revenue Fund, which is hereby charged therewith, to any co-operative society, bank, or credit union of subsidies or loans which shall not, in the case of a subsidy or  
20 subsidies to any one society, exceed in all twenty per centum of the total amount of the capital subscribed for the purposes of such society ; and shall not, in the case of a loan or loans to any one society, exceed in all  
25 sixty per centum of the total amount of the capital so subscribed.

(3) The Governor may make and publish in the Gazette any necessary or convenient regulations for giving effect to the provisions and objects of this section. Such regulations shall take effect from the date of such  
30 publication, or from a later date to be specified therein, and shall be independent of, and have concurrent authority with, the provisions of the Building and Co-operative Societies Act, 1901.

*(5) Power to investigate complaints.*

35 **15.** (1) The President may as regards any necessary commodity, or any necessary service, in respect of which no maximum price or rate of profit or charge has been fixed under this Act, receive and investigate complaints that a profit is being or has been, since the commencement

Power to investigate complaints and fix reasonable prices and charges.  
cf. Imperial Profiteering Act, 1919.

*Profiteering Prevention.*

commencement of this Act, made or sought on the sale of such commodity, whether wholesale or retail, or on the supply of such service, which is, in view of all the circumstances, unreasonable, and on any such complaint the President may, after giving the parties an opportunity of being heard, either—

(a) dismiss the complaint; or

(b) fix the price or charge which would yield a reasonable profit, and require the seller of the commodity or the person supplying the service to repay to the complainant any amount paid by the complainant in excess of such price or charge.

(2) Any seller or person supplying such service who in such proceeding is proved to have charged or sought a profit which is, in view of all the circumstances, unreasonable shall be guilty of an offence against this Act:

Provided that no proceeding under this section shall be instituted without the leave of the Attorney-General or of some person authorised in writing by the Attorney-General to give such leave, and application for such leave shall not be made after the expiration of one month from the date of the transaction complained of.

**16.** Where any persons, or associations of persons, appearing to the President to represent a substantial proportion of the persons engaged in the production, manufacture, sale, or distribution of any necessary commodity, or class of necessary commodities, or engaged in the supply of any necessary service, submit to the President a scheme limiting the rate of profit to be allowed on the production, manufacture, sale, or distribution of such commodity or class, at all or any stages of production, manufacture, sale, or distribution, or on the supply of such service, the President may, if he thinks it expedient, approve the scheme; and, where such scheme is so approved, any profit sought or obtained in connection with the manufacture, production, sale or distribution of

Power to approve schemes limiting profits.

cf. Imperial Profiteering (Amendment) Bill, 1920, s. 1.



*Profiteering Prevention.*

of any commodity, or the supply of any service, to which the scheme relates, which does not exceed such profit as is allowed by or under that scheme, shall not be deemed unreasonable for the purposes of the last 5 preceding section.

(6) *Power to fix maximum prices of, and maximum rates of profit on, commodities.*

**17.** (1) Without limiting the generality of section fifteen the President may, by notice in the Gazette and 10 in prescribed newspapers (if any) from time to time—

(a) fix the highest price, wholesale or retail, at which any necessary commodity may be sold or supplied—

(i) by fixing such price directly; or

15 (ii) by fixing the highest rate of profit (and whether gross profit or not as the President thinks fit) at which any necessary commodity may be sold or supplied or which may be charged or received in respect thereof:

20 Provided that a maximum price and also a maximum rate of profit may be fixed with respect to the same necessary commodity;

(b) fix the delivery charge which may be charged for the delivery of any necessary commodity 25 from the place of business of the trader to places within a specified radius thereof;

(c) fix different maximum prices or rates of profit according to differences in quality or description, or in the quantity sold or supplied, or according 30 to whether the sale or supply is by wholesale or by retail;

(d) fix different maximum prices or rates of profit for different parts of New South Wales;

35 (e) fix any maximum price or rate of profit relatively to such standards of measurement, weight, capacity or otherwise as he thinks proper;

(f)

Power to fix maximum prices, maximum rates of profit, &c. cf. Necessary Commodities Control Act, 1919 (Vic.), s. 10.

*Profiteering Prevention.*

- (f) fix maximum prices or rates of profit on a sliding scale ;
- (g) fix maximum prices or rates of profit varying in accordance with a standard, time, or other circumstance ;
- 5 (h) fix maximum prices or rates of profit on a condition or conditions ;
- (i) fix maximum prices varying with profits, dividends, or wages ;
- 10 (j) fix maximum prices or rates of profit for cash, delivery, credit, or time-payment, and in either case inclusive or exclusive of the cost of packing ;
- (k) fix maximum prices or rates of profit on the basis of manufacturing, landed, delivered or other cost ; and declare what items may or may not be included in such cost and whether in determining such cost regard is to be had to the invoice cost of the materials used or to the cost of replacing the materials used or to any other method or principle specified in the proclamation ;
- 20 (l) fix the maximum rates of profit which may be made in any business or in any department, division, or connected transactions of a business, or on any group of commodities sold or supplied therein ;
- 25 (m) fix maximum prices or rates of profit according to or upon any principle or condition or upon any basis prescribed ; and
- 30 (n) vary or revoke any maximum price or rate of profit previously fixed by him, but so as to apply only to future transactions.
- (2) The President may for the purposes of this
- 35 Act investigate prices, costs, and profits at all stages.
- (3) The President shall, in fixing prices or rates of profit under this section, fix such prices or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers there-
- 40 under), have regard to—
- (a) the actual cost to the seller of such commodity ;
- (b)

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*Profiteering Prevention.*

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- (b) the average cost to the seller of the stock of such commodity in his possession for the purposes of his business ;
- 5 (c) the average selling price of, or average rate of profit on the sale of, such commodity during the year ending on the thirtieth day of June, one thousand nine hundred and fourteen ;
- 10 (d) the difference between the respective rates of wages paid by employers engaged in the production, manufacture, distribution, or sale of such commodity on such day and on the day on which the price or rate of profit is fixed ;
- 15 (e) the difference between the respective prices of commodities used in the production, manufacture, distribution, or sale of such commodity on such day and on the day on which the price or rate of profit is fixed ; and
- 20 (f) whether such commodity is produced or manufactured in, or is imported into, the Commonwealth.
- (4) Where the business mentioned in paragraph (e) of subsection one of this section is carried on by a corporation, the President shall, in fixing maximum rates of profit under such paragraph (but without
- 25 limiting the generality of his powers under this section) have regard to—
- (a) the extent (if any) to which the capital of the said corporation has been increased by the issue of new shares or by the capitalization
- 30 of profits or reserves, or by any method whatsoever ;
- (b) the amount (if any) of the reserves held by such corporation ; and
- 35 (c) the purpose and effect of any reconstructions or amalgamations affecting such corporation.
- (5) The notice mentioned in subsection one shall specify a day, being a day not more than fourteen days after the publication thereof in the Gazette, upon which such maximum price or rate of profit or delivery charge
- 40 shall take effect.

*Profiteering Prevention.*

**18.** (1) The President may by notice as aforesaid declare that the market price of any necessary commodity shall not be increased on or after a date to be fixed by such notice.

Power to prohibit increase in price of necessary commodities.

5 (2) The market price of such commodity on such date shall be deemed to be the fixed price therefor, and shall be deemed to have been fixed under the last preceding section.

cf. Necessary Commodities Control Act, 1919, s. 12.

**19.** (1) The President may, by notice delivered to any person, require that such person shall not, on or after a date to be fixed by such notice, increase the price charged by such person for any commodity, or the charge made by him for the supply of any service, specified in such notice, unless such person first obtains the permission in writing of the President.

Power to prohibit specific persons from increasing prices. cf. *Ibid.*, s. 13.

(2) The price charged by such person for such commodity, or the charge made by him for such service on the date fixed by such notice shall be deemed to be the fixed price or charge which may be demanded or received by such person, and shall be deemed to have been fixed under section seventeen.

**20.** Where the maximum price or rate of profit in respect of the sale of any necessary commodity or the delivery charge therefor has been fixed under this Act, that price or rate of profit or delivery charge shall apply to—

Application of fixed price or rate of profit to sale under contract.

30 (1) the sale, supply, or delivery of any of such commodity sold, supplied, or delivered after the date of the fixing of that price or rate of profit in pursuance of a contract entered into before that date, unless the President certifies that, as regards any particular contract or class of contracts or any part of a contract or class of contracts, it is undesirable that such price or rate of profit should apply; and

Necessary Commodities Control Act, 1919 (Vic.), s. 12.

35 (2) the sale, supply, or delivery of any of such commodity sold, supplied, or delivered after the date of the fixing of that price or rate of profit in pursuance of a contract entered into after that date.

40

*Profiteering Prevention.*

(7) *Power to fix maximum charges for, and maximum rates of profit on, necessary services.*

**21.** (1) The President may by notice in the Gazette and in prescribed newspapers (if any) from time to time Power to fix maximum charges and rates of profit for or on necessary services. fix the maximum charges and rates of profit which shall be made for or on the supply of any necessary service, and in particular, and without limiting the generality of the power hereby conferred—

- 10 (a) may fix different maximum charges and rates of profit according to the nature of the service supplied ;
- (b) may fix different maximum charges and rates of profit for different parts of the State ;
- 15 (c) may fix any charge or rate of profit relatively to such standards of measurement, weight, capacity, distance, or otherwise as he thinks proper ;
- (d) may fix charges or rates of profit according to or upon any principle or condition prescribed ;
- 20 (e) may fix the maximum rate of profit which may be made in the business ; and
- (f) may from time to time vary or revoke any rate previously fixed by him, but so as to apply only to future transactions.

25 (2) The President shall, in fixing charges or rates of profit under this section fix such charges or rates of profit as are reasonable in the circumstances, and shall (but without limiting the generality of his powers thereunder), have regard to—

- 30 (a) the average rate of profit made on the supply of such service during the year ending on the thirtieth day of June one thousand nine hundred and fourteen ;
- 35 (b) the difference between the respective rates of wages paid by employers supplying such service on such day and on the day on which the charge is fixed ; and
- (c) the difference between the respective prices of commodities used in the supply of such service
- 40 on such day and on the day on which the charge is fixed.

*Profiteering Prevention.*

(3) Where the business mentioned in paragraph (c) of subsection one of this section is carried on by a corporation, the President shall, in fixing a maximum rate of profit under such paragraph (but without  
5 limiting the generality of his powers under this section) have regard to the matters specified in subsection four of section seventeen.

(4) Such notice shall specify a day, being a day not more than fourteen days after the publication  
10 thereof in the Gazette, upon which such maximum charge shall take effect.

(5) Nothing in this section shall affect the Railway Commissioners for New South Wales.

*(8) Power to acquire commodities.*

15 **22.** (1) The Governor may—

- (a) by proclamation published in the Gazette; or  
(b) by notice given to any person or persons,

direct all or any persons who, whether as owners or otherwise, have in their possession or under their control  
20 any specified necessary commodity to retain and hold the same, or a specified quantity thereof, for and on behalf of His Majesty.

Power of Governor to acquire a necessary commodity by proclamation or notice.

(2) Upon the publishing of such proclamation or the giving of such notice the title to and property in  
25 such commodity or quantity thereof shall be divested from the owners thereof and become vested in His Majesty freed from any charge thereon and from any claim, contractual or otherwise, and the holders or owners of the goods shall thereupon be discharged from any other  
30 contractual engagements whatsoever in respect thereof; and the title and property of such owners shall be converted into a right to receive payment of the value of such commodity or quantity thereof as hereinafter provided.

Property of former owner therein to vest in His Majesty.

(3) All such persons, and their agents and  
35 servants, shall without delay, obstruction, or objection give immediate and peaceable possession of such commodity or quantity thereof to the Minister or to any person authorised by him to demand and take possession of the same.

Owners, &c., to give possession to Minister.

(4)

*Profiteering Prevention.*

(4) The production of any document or telegram purporting to be a demand or an authority to demand such commodity or quantity thereof, and to be signed or sent by the Minister or his Under Secretary, shall be sufficient authority for the delivery of the commodity or quantity thereof, to which such document or telegram relates.

Authority signed or purporting to be signed by Minister, &c., to be sufficient authority for delivery.

(5) The owner of such commodity or quantity thereof shall be entitled to be paid therefor by the Minister either—

Payment of value of such commodity.

(a) at the price or rate of profit fixed by this Act in respect of such commodity; or

(b) where no price or rate of profit has been so fixed,—

(i) at such price as may be mutually agreed upon, or

(ii) in default of such agreement, at such price as may be determined by the President after hearing the parties concerned.

(6) In the event of any doubt or dispute arising as to the person legally entitled to receive any moneys payable under this section or as to any charge thereon or claim in respect thereof, the Minister may, in default of agreement between the parties concerned, pay the same into the office of the Master in Equity to abide such order as may be made by the Supreme Court in its equitable jurisdiction.

Payment in case of doubt or dispute into office of Master in Equity.

(7) Any person who, after the publishing of such proclamation or the giving of such notice,—

Penalties.

(a) attempts to dispose of or in any way deal with such commodity or quantity thereof to the prejudice of His Majesty's rights and powers under this section; or

(b) refuses to deliver, or delays, or obstructs the delivery as aforesaid of such commodity or quantity thereof,

shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding six months or to both penalty and imprisonment; or, if the offender be a corporation to a penalty not exceeding one thousand pounds.

(8)

*Profiteering Prevention.*

(8) Where any commodity has been acquired under the provisions of this section, the Minister may store, sell, or otherwise dispose of the same to such persons or bodies, and at such times, and in such manner, and  
 5 upon such terms and conditions, as he may think fit.

Power of Minister to dispose of any commodity acquired under this section.

(9) *Power to secure sufficient supplies of commodities for home consumption.*

**23.** (1) If the Governor has reason to believe that any necessary commodity is being sent out of New South  
 10 Wales in such quantities that a sufficient supply thereof will not or may not be available for home consumption at the fixed price, or, if no price has been fixed, at such price as he may deem reasonable in the circumstances, he may by proclamation published in the Gazette make  
 15 such regulations and orders and give such directions as may be necessary to render available as aforesaid a sufficient supply of such commodity at such price, and to that end may act in conjunction with any other Government or authority.

Power to secure sufficient supplies of commodities for home consumption.

**20** (2) Any person contravening any of the provisions of such proclamation shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding four hundred pounds, or to imprisonment for  
 25 any term not exceeding twelve months; or, if the offender be a corporation, to a penalty not exceeding one thousand pounds.

(10) *Power to require returns of commodities or services to be furnished.*

**24.** (1) The Governor may, whether an investigation  
 30 or inquiry under this Act has been instituted or not, by notice require any person having, or suspected of having, in his possession or under his control any specified necessary commodity, or being a supplier of any specified necessary service, to furnish to the Governor  
 35 within the time fixed by such notice, a return in the specified form setting forth to the best of such person's knowledge and ability such particulars as are specified with respect to such commodity or service.

Power of Governor to require returns to be furnished.

(2)



*Profiteering Prevention.*

(2) Such notice may be either a notice given to such person individually or a notice to such persons generally and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).

(3) Such returns shall be verified by statutory declaration.

(4) Any return furnished by any person under this section shall in any proceeding under this Act be admissible in evidence against such person.

(5) Any person who—

(a) fails to comply with any of the requirements of such notice; or

(b) wilfully furnishes any false or misleading return,

shall be guilty of an offence against this Act.

(11) *Power to require traders and others to adopt costing methods and to keep and furnish records of cost and of capital invested.*

20 **25.** (1) The President may, after consulting with assessors who possess an expert knowledge of account-  
 25 ancy and of the business of production, manufacture, distribution and sale, or of the supply of any necessary service, by notice in the Gazette and in prescribed newspapers (if any), require any or every person who is a producer, manufacturer, distributor, or seller of any specified necessary commodity, or who prepares the same for sale or distribution, and any or every person who supplies any necessary service,—

Power of President to require traders, &c., to adopt costing methods, and keep certain records.  
 cf. Necessary Commodities Control Act, 1919 (Vic.), s. 39.

30 (a) to adopt such methods as may be prescribed for ascertaining the cost of producing, manufacturing, distributing, or selling such commodity, or preparing the same for sale or distribution, and the cost of supplying such service;

35 (b) to keep in a prescribed manner and form—

(i) records of such cost;

40 (ii) records of the amounts of moneys placed to reserves and of capital subscribed, not called up, derived from profits, or otherwise

wise

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*Profiteering Prevention.*

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- wise invested, accumulated, used, or employed from time to time in the business, whether before or after the passing of this Act ;
- 5 (iii) records of manufacturing, trading, or other accounts on periodical bases either in respect of the business as a whole, or in respect of any department, division, or connected transactions of such business, or in respect of any group of commodities sold or supplied therein ; and
- 10 (iv) records showing what profits, gross and net, have been made over specified periods either in respect of the business as a whole or in respect of any department, division, or connected transactions of such business, or in respect of any group of commodities sold or supplied therein, and how such profits have been distributed or otherwise dealt with.
- 15 (2) For the purposes of this section such assessors may exceed two in number.
- 20 (3) (a) The President may by notice require any or every such person to furnish to the President within the time fixed by such notice any such record verified by statutory declaration.
- 25 (b) Such notice may be either a notice given to such person individually or a notice to such persons or a class of such persons generally, and such last-mentioned notice shall be published in the Gazette and in prescribed newspapers (if any).
- 30 (4) Every such person shall on demand for inspection by any person producing the authority in writing of the President produce any such record and allow such person to make copies or abstracts of such record or of any entries therein.
- 35 (5) The President may, whether the powers conferred upon him by subsection one of this section have been exercised by him or not, by notice require any such person to supply him within the time fixed by such notice with particulars verified by statutory declaration
- 40 of any of the matters specified in such subsection.

(6)

*Profiteering Prevention.*

(6) Records or particulars required to be kept, furnished, produced, or supplied under this section by any person shall in any proceeding under this Act be admissible in evidence against such person.

5 (7) Any person who—

(a) fails to comply with any of the requirements of this section ; or

(b) wilfully keeps, furnishes, produces, or supplies any false or misleading record or particulars,

10 shall be guilty of an offence against this Act.

(12) *Power of President to act in conjunction with other bodies.*

26. The President may, in the exercise of any of his powers and duties under this Act, co-operate with any person or body appointed and acting under any Act of the Commonwealth or of any State having objects similar to the objects of this Act.

Power of President to co-operate with other bodies.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 26.

## PART IV.

## PARTICULAR OFFENCES.

20 27. (1) Any wholesale or retail trader who has in his possession or under his control any necessary commodity, and who fails—

(a) on demand of any quantity of such commodity; and

25 (b) on tender of payment at the fixed price or rate of profit for the quantity demanded,

to supply such commodity in such quantity, shall, subject to the provisions of this section, be guilty of an offence against this Act.

30 (2) Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question—

(a) the defendant supplied a reasonable quantity of such commodity; or

35 (b) there existed special circumstances in the particular case which justified or excused the failure of the defendant to comply with the provisions of this section. (3)

Failure to supply necessary commodity at fixed price.  
cf. Necessary Commodities Control Act, 1919, s. 14.

*Profiteering Prevention.*

(3) For the purposes of this section the President shall, in determining what is a reasonable quantity, have regard to all the circumstances of the case.

(4) Where a retail trader is prosecuted under this section, the defence that he supplied a reasonable quantity of such commodity shall be sufficiently established by proof that he supplied the person making the demand with a sufficient quantity thereof to meet the reasonable needs for one week—

- 10 (a) of himself and the members of his household ;  
and  
(b) if such commodity is of a kind generally used for animals, of all animals kept by him of the kinds for which such commodity is ordinarily used.
- 15

(5) For the purposes of this section, all persons who live with and in the same house as a person shall be deemed to be members of his household ; and animals shall be deemed to include birds.

20 **28.** (1) Any person who (whether as principal or agent or whether by himself or his agent)—

- (a) sells or supplies or offers to sell or supply any necessary commodity at a price higher than the fixed price ; or
- 25 (b) charges or takes any sum for delivering any necessary commodity other than such sum (if any) as is fixed as a delivery charge in respect thereof—

shall be guilty of an offence against this Act ; and in case of sale or supply or of delivery (as the case may be) shall, in addition to any penalty or imprisonment to which he is liable under this Act, be liable to refund to the purchaser the difference between the fixed price and the price at which the commodity was sold or supplied or (as the case may be) to refund to the person to whom delivery is made the difference between the fixed delivery charge and the sum actually charged or taken for delivering the commodity.

30

35

(2) Any person who (whether as principal or agent or whether by himself or his agent) sells or supplies or offers to sell or supply any of such commodity for such a price as yields to him a rate of profit which is greater than

Sales at prices higher than fixed price.  
cf. Necessary Commodities Control Act, 1919 (Vic.), s. 13.

Sales at rates of profit higher than fixed rate.  
cf. *Ibid.* s. 14.

*Profiteering Prevention.*

than the fixed rate of profit with respect to such commodity shall be guilty of an offence against this Act, and shall in addition to any penalty or imprisonment to which he is liable under this Act be liable to refund to the purchaser the amount overcharged :

Provided that where a delivery charge is also fixed, but in no other case, a sum not exceeding such delivery charge may be added to the selling price.

(3) Where the maximum rate of profit which may be made in any business or in any department, division, or connected transactions of a business, or on any group of commodities sold or supplied therein, has been fixed, any person carrying on such business who makes a profit in excess of the rate so fixed shall be guilty of an offence against this Act; and the amount of such excess may be recovered from such person as a debt due to His Majesty :

Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such excess is relatively small and could not reasonably have been anticipated by the defendant.

**29.** In any prosecution for an offence under the last preceding section an invoice given or account rendered by the defendant, or by some person with the express or implied authority of the defendant, for the necessary commodity in respect of which the offence is alleged to have been committed, or an offer in writing signed by the defendant or by some person on his behalf, to sell or supply such necessary commodity at a specified price, shall be prima facie evidence of the sale or supply of or offer to sell or supply such necessary commodity, and of the price charged or to be charged therefor.

**30.** Any wholesale or retail trader who, whether by way of premium or otherwise, purchases or offers to purchase any necessary commodity at a price or rate of profit higher than the fixed price or fixed rate of profit shall be guilty of an offence against this Act.

**31.** (1) Any person, not being a bona fide wholesale or retail trader or a bona fide consumer or user, who purchases or agrees to purchase or otherwise acquire (except by way of bona fide security only) any specified necessary commodity or any right or interest therein, shall

Making profits in excess of the rate fixed for any department, &c., of a business.

Invoices, &c., to be prima facie evidence of sale and of price charged. cf. Necessary Commodities Control Act, 1919, s. 15.

Purchases by wholesalers or retailers at a price or rate of profit higher than fixed price or rate of profit.

Speculating in necessary commodities.

*Profiteering Prevention.*

shall be guilty of an offence against this Act, and the commodity so purchased or agreed to be purchased or acquired shall be liable to forfeiture as hereinafter provided :

5 Provided that in any prosecution under this subsection it shall be a sufficient defence to show that such purchase or agreement had not the object nor the effect of increasing, directly or indirectly, the price of such commodity to the consumer or user.

10 (2) Any person—

(a) who purchases or agrees to purchase or otherwise acquire any specified necessary commodity while the same is in transit to any market or place for the purpose of sale or distribution therein and who, while such commodity is still in transit, resells or agrees to resell at a profit the same or any part thereof ; or

15 (b) who purchases or agrees to purchase or otherwise acquire any specified necessary commodity while the same is in any market or place for the purpose of sale or distribution therein, and who, while such commodity is still in such market or place, resells or agrees to resell at a profit the same or any part thereof ; or

20 (c) who dissuades or attempts to dissuade any person from bringing or sending any specified necessary commodity to any market or place for the purpose of sale or distribution therein,

shall be guilty of an offence against this Act.

30 **32.** (1) Where any proceeding to fix the maximum price of or rate of profit on any necessary commodity, or the maximum charge for or rate of profit on the supply of any necessary service, has been instituted under this Act and is still pending, no person shall increase  
 35 the price or rate of profit at which he sells such commodity or the charge or rate of profit made by him for the supply of such service, unless he shall first have given the President notice of his intention so to do and obtained permission or shown cause as hereinafter  
 40 provided.

(2) Every such notice shall specify—

(a) the necessary commodity or the necessary service to which it relates ;

(b)

Increasing prices, &c., without leave.

*Profiteering Prevention.*

(b) the then current price or rate of profit or charge;

(c) the proposed increased price or rate of profit or charge; and

5 (d) such further particulars as may be prescribed.

(3) The President shall, within fourteen days after the receipt of such notice, either—

(a) notify such person that he permits such increase; or

10 (b) require such person to show cause why such increase should be allowed.

(4) Any person who increases such price or rate of profit or charge without first obtaining such permission or showing cause as aforesaid shall be guilty  
15 of an offence against this Act.

**33.** (1) Any person who sells, offers, or exposes for sale, or supplies any necessary commodity knowingly represented by him, expressly or impliedly, to be of a particular description, make, origin, or quality shall, if  
20 such commodity is of a different description, make, origin, or quality, be guilty of an offence against this Act.

(2) The President may by notice in the Gazette and in prescribed newspapers (if any) require wholesale and retail traders in a prescribed manner and form to  
25 mark on or indicate with respect to any necessary commodity—

(a) the description, make, origin, and quality thereof; and

30 (b) such further particulars in relation thereto as he may think fit.

Any person who fails to comply with any of the requirements of such notice shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds. For a second offence the  
35 defendant shall be liable to a penalty not exceeding one hundred pounds, and for a third or subsequent offence to a penalty not exceeding two hundred pounds.

**34.** (1) Every wholesale and retail trader in a necessary commodity and every person supplying a necessary service shall, where a maximum price or charge  
40 has

Mis-  
representing  
description,  
&c., of  
necessary  
commodities.

Lists of  
prices, &c., to  
be exhibited  
by traders,  
&c.

*Profiteering Prevention.*

has been or shall be from time to time fixed, within such time and in such manner as shall be prescribed, exhibit conspicuously on his business premises, and keep so exhibited, a printed or legibly written list showing  
 5 such fixed price or charge, and the commodity or service in respect of which it has been fixed, and such further particulars (if any) as shall be prescribed.

(2) Any person failing to comply with any of the provisions of this section shall be guilty of an  
 10 offence against this Act.

**35.** Any producer, manufacturer, distributor, or  
 seller, whether wholesale or retail, of any article of food  
 or drink, who (by himself or by his agent or servant)  
 destroys or casts away the same, shall be guilty of an  
 15 offence against this Act:

Provided that in any prosecution under this section it shall be a sufficient defence to show that on the occasion in question such destruction or casting away was necessary.

**36.** Any person who is a supplier of any necessary  
 20 service and who fails, without reasonable excuse, on tender of the fixed charge to supply such service or who demands or receives for such service a charge or rate of profit higher than the fixed charge or rate of  
 25 profit, shall be guilty of an offence against this Act.

**37.** Any wholesale or retail trader who sells any  
 necessary commodity and any person who supplies any  
 necessary service, and who in either case fails, on demand  
 by the purchaser or recipient of the service, as the case  
 30 may be, to furnish to such purchaser or recipient a docket receipt or ticket showing clearly—

(1) the commodity sold or the service supplied and the date of such sale and the supply of such service;

35 (2) the price paid on the sale of such commodity or the charge paid for such service,  
 shall be guilty of an offence against this Act.

**38.** Any person who—

40 (a) gives, confers, or procures, or promises, or offers to give, confer, or procure any property, or benefit of any kind to, upon, or for any person upon

Destruction of food or drink.

Excessive charges, &c., by suppliers of necessary services.

cf. Necessary Commodities Control Act, 1919, s. 22.

Right of purchaser, &c., to demand docket or receipt from trader, &c.

Bribing of witness.  
 cf. *Ibid.*, s. 24.



*Profiteering Prevention.*

- upon any agreement or understanding that any person called, or to be called, as a witness in any proceeding under this Act shall give false testimony or withhold true testimony ; or
- 5 (b) by any means induces a person called, or to be called, as a witness in any such proceeding to give false testimony or to withhold true testimony ; or
- 10 (c) asks for, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall, as a witness in any such proceeding, give false testimony or withhold true testimony,
- 15 shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

**39.** Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any such proceeding, with intent to affect the testimony of that person as a witness, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term

25 not exceeding two years.

Fraud on witness.  
cf. *Ibid.* s. 25.

**40.** Any person who, knowing that any book, document, or writing is or may be required in evidence in any such proceeding, wilfully destroys it, or renders it illegible or undecipherable, or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Destroying books or documents.  
cf. *Ibid.* s. 26.

**41.** Any person who wilfully prevents any person who has been summoned to attend as a witness in any such proceeding from attending as a witness, or from producing any evidence pursuant to the summons to attend, shall be guilty of a misdemeanour, and shall be imprisoned for any term not exceeding two years.

Preventing witness from attending.  
cf. *Ibid.* s. 27.

**42.** Any person who uses, causes, inflicts, or procures any violence, punishment, loss, or disadvantage to any person

Injury to witness.  
cf. *Ibid.* s. 28.

*Profiteering Prevention.*

person for or on account of his having appeared as a witness in any such proceeding, or for or on account of any evidence given by him therein, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for 5 any term not exceeding one year.

**43.** (1) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of such employee's having appeared as a witness or given evidence in any 10 such proceeding shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding one year.

Dismissal by employers of witness.  
cf. *Ibid.* s. 29

(2) In any proceeding for an offence against this section it shall lie upon the employer to prove that 15 any employee shown to have been dismissed from or prejudiced in his employment was so dismissed or prejudiced for some reason other than a reason mentioned in subsection one of this section.

## PART V.

## 20 PENALTIES AND FORFEITURES.

(1) *Penalties.*

**44.** (1) Any person guilty of an offence against this Act shall, except where this Act otherwise provides, be 25 liable—

Penalties, except where otherwise provided.

(a) for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding three months, or, if the offender be a corporation, to a penalty not exceeding two hundred pounds: Provided that 30 the President or magistrate may, if satisfied that such first offence was due to inadvertence, impose a nominal penalty only; and

(b)

*Profiteering Prevention.*

(b) for a second or subsequent offence to a penalty not exceeding two hundred pounds or to imprisonment for any term not exceeding six months or to both, or if the offender be a corporation, to a penalty not exceeding five hundred pounds.

(2) Any person charged with a third or subsequent offence against the provisions of sections eleven, fifteen, twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, thirty-six, fifty-nine, sixty, or sixty-one shall be liable to be proceeded against on indictment before the Supreme Court, and if convicted of such offence, shall be liable to penal servitude for a term not exceeding five years.

If the offender be a corporation, such corporation shall be liable to be proceeded against before the Supreme Court for the recovery of a penalty not exceeding one thousand pounds; and, in addition to or in lieu of such penalty, the Supreme Court in its equitable jurisdiction may dissolve and wind up such corporation upon such terms as it may think just and reasonable.

**45.** Where a person convicted of any offence against this Act is a corporation the chairman and every managing director and every officer concerned in the management of the corporation shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

Offence by corporation to be deemed an offence, prima facie, by the chairman, each director and officer.

cf. Necessary Commodities Control Act, 1919 (Vic.), s. 34.

**46.** If two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty or imprisonment or both provided by this Act, and the liability of each of them shall be independent of the liability of the others.

Each of two or more persons responsible for same offence to be liable.  
cf. *Ibid.*

**47.** Any agent, employee, or other person acting for another who knowingly takes part in or is in any way privy to doing any act or thing without authority which if authorised would be an offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

Offence by agent, employee, &c.  
cf. *Ibid.*

*Profiteering Prevention.*

**48.** Every person who in New South Wales aids, abets, counsels, procures, or connives at, or by any act or omission is in any way directly or indirectly concerned in or privy to—

Aiding and abetting offences against this Act.

5 (a) the commission of any offence under this Act ; cf. *Ibid.* s. 35.  
or

(b) the doing of any act outside New South Wales which if done in New South Wales would be an offence under this Act—

10 shall be deemed to have committed that offence and shall be punishable accordingly.

**49.** (1) Any inspector or member of the police force or party aggrieved may, except where this Act otherwise provides, institute proceedings—

Recovery of penalties, &c. cf. Necessary Commodities Control Act, 1919, s. 32.

15 (a) in respect of offences committed within the Metropolitan, Newcastle, and Wollongong police districts constituted under Part III of the Justices Act, 1902, before the Chief Industrial Magistrate or his deputy ; and

20 (b) in respect of offences committed within other police districts before a stipendiary or police magistrate at the court in or nearest to the place where the defendant resides,

for the recovery in a summary way under the Justices Act, 1902, of any penalty, or for the awarding of any imprisonment, imposed by this Act or by any regulation made thereunder.

(2) Any defendant convicted before a magistrate of an offence against this Act may appeal to the President against such conviction, and any inspector, member of the police force, or party aggrieved by any order of a magistrate dismissing any proceeding instituted under this Act may, with the consent of the Minister, appeal to the President against such order.

35 (3) An appeal against such conviction or order shall be in the nature of a rehearing, and upon such appeal the President may—

(a) affirm, vary, or set aside such conviction or order ; and

40 (b) impose any penalty or award any imprisonment authorised in the particular case by this Act.

(4)

*Profiteering Prevention.*

(4) The President may make rules for the institution of, and the procedure on, appeals under this section.

Notwithstanding anything contained in this Act the powers of the President under this section shall not be exercisable by an auxiliary judge who is not a barrister or solicitor.

(2) *Forfeitures.*

50. If the President is satisfied that any person —
- 10 (1) is buying up or storing or is retaining in his possession or under his control any necessary commodity in breach of the provisions of section eleven; or
- 15 (2) has in his possession or under his control any such commodity, and has failed, on demand and tender of the fixed price, to supply in accordance with the provisions of section twenty-seven any particular person or persons with such commodity; or
- 20 (3) not being a bona fide wholesale or retail trader or a bona fide consumer or user has purchased or agreed to purchase or acquire any such commodity in breach of the provisions of subsection one of section thirty-one,
- 25 the President may recommend to the Governor that such commodity be forfeited. The Governor may thereupon by notice in the Gazette order that the whole of such commodity, or such quantity thereof as is specified in such notice, be forfeited to the Crown.
- 30 51. When any necessary commodity has been so forfeited, it shall be lawful for any inspector or any member of the police force or any person thereunto authorised in writing by the Minister—
- 35 (a) to seize any commodity which he has reasonable cause to believe is forfeited under this Act;
- (b) to store the same in any place provided by the Minister for the purpose; and
- 40 (c) to sell or otherwise dispose of the same to such persons or bodies and at such times and in such manner and upon such terms and conditions as the Minister may direct, or as may be prescribed.

Forfeiture of  
necessary  
commodities.  
cf. *Ibid.* s. 17.

Seizure and  
disposal of  
forfeited  
commodities.  
cf. *Ibid.* s. 18.

*Profiteering Prevention.*

**52.** When any necessary commodity is seized under this Act the person who was the owner thereof prior to the forfeiture shall be entitled to be paid therefor by the Minister at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the Minister deems reasonable in the circumstances, after deducting in either case—

Payment to former owner of fixed price, less certain deductions.

cf. *Ibid.* s. 19.

- 10 (a) the amount of any penalties imposed on such person in any proceedings under this Act, whether in respect of the goods so seized or otherwise, and the amount of any costs awarded against him in such proceedings, or so much of such amounts as have not already been paid; and
- 15 (b) the costs and expenses of any application to the President for a recommendation of forfeiture, whether in respect of the necessary commodity so seized or any other necessary commodity; and
- 20 (c) the costs and expenses of searching for, seizing, storing, and selling or otherwise disposing of such commodity.

**53.** Any inspector or member of the police force or person thereunto authorised in writing by the Minister may at any time in the day or night enter into and search any premises or vessel or part thereof, where any necessary commodity forfeited or liable to seizure under this Act is, or is supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises or vessel or part, and may break open and search any chests, trunks, packages, or other things in which any such commodity is or is supposed to be.

Power to search for necessary commodities.

cf. *Ibid.* s. 20.

*(3) Compulsory sales in lieu of forfeitures.*

**54.** (1) In any of the cases mentioned in section fifty the President may, in lieu of recommending a forfeiture, by notice require any person, who is the owner of or has in his possession or under his control any specified necessary commodity, to sell the same, or a specified quantity thereof, within a specified time, and in the manner hereinafter provided. (2)

Power of President, in lieu of recommending the forfeiture of a commodity, to require owner, &c., to sell the same.

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*Profiteering Prevention.*

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(2) Such sale shall be—

(a) where such person is a wholesale trader, a bona fide sale direct to a retail trader or traders or to a consumer or consumers; and

5 (b) where he is a retail trader, a bona fide sale direct to a consumer or consumers.

(3) Such sale shall be at the fixed price or rate of profit, or, where no price or rate of profit has been fixed, at such price as the President may deem reasonable  
10 in the circumstances.

(4) Any person failing to sell as aforesaid shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds for every day after the expiry of the specified time during  
15 which such default continues:

Provided that in any prosecution under this section it shall be a sufficient defence to show—

(a) that the failure to sell was not due to any act or omission on the part of the defendant or of  
20 any agent or servant of the defendant; or

(b) that there existed special circumstances justifying or excusing such failure to sell.

*Profiteering Prevention.*

PART VI.

SUPPLEMENTARY AND GENERAL.

**55.** The President shall for the purposes of any investigation, inquiry, or proceeding under this Act have Powers of President for purposes of an inquiry. cf. *Ibid.* s. 30.  
 5 all such powers, rights, and privileges as are vested in the Supreme Court, or in any judge thereof, on the occasion of any action or trial in respect of—

- (a) the compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration ;
- 10 (b) the compelling the production of books, documents, and writings ;
- (c) the compelling witnesses to answer questions which the President deems to be relevant to the inquiry ;
- 15 (d) the punishing persons guilty of contempt or of disobedience of any order or summons made or issued by the President ; and
- (e) the directing witnesses to be prosecuted for perjury.
- 20

**56.** A summons signed by the President may be issued for enforcing the attendance of witnesses or compelling the production of books, documents, and writings. If any person having been served with such Summons for attendance of witness or production of documents. cf. *Ibid.* s. 31.  
 25 summons fails to appear, the President may issue a warrant authorising such person to be apprehended and brought before him.

**57.** (1) The President in the exercise of any of his powers or duties shall not (except on the hearing of an Commission not to be bound by rules as to procedure or evidence. cf. Necessary Commodities Control Act, 1919 (Vic.), s. 24.  
 30 appeal under section forty-nine of this Act) be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct his proceedings and inform his mind on any matter in such manner as he thinks proper, and without limiting in any way the operation of this section the President may refer any technical matter to an expert and may accept his report as evidence.  
 35

(2) The President may, in his discretion, limit the number of witnesses who may be called on any particular issue by a party to any proceeding, other than a prosecution for an offence against this Act.  
 40 **58.**



*Profiteering Prevention.*

**58.** A statement or disclosure made by any witness in answer to any question put to him in any prosecution under this Act shall not (except in a proceeding for an offence against this Act, or in a prosecution for perjury) be admissible in evidence against him in any civil or criminal proceeding in any court.

Statements made by witness not admissible in evidence against him. cf. *Ibid.* s. 27.

**59.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, require any wholesale or retail trader in any necessary commodity and any supplier of any necessary service to produce for examination by any person who has the authority in writing of the President, and at any time and place fixed by the President, any books, documents, and writings in his possession or under his control which may be deemed by the President to be necessary for the purpose of obtaining information in respect of any matters coming within the scope of this Act. Such trader or supplier shall when required by the person so appointed allow him to make copies or abstracts of any such books, documents, and writings so produced, or of any entries therein.

Power of President to require production of books, &c., to person appointed in that behalf.

(2) Any such trader or supplier who refuses or fails to comply with any requirement made under this section shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after the first during which such refusal or default continues.

**60.** (1) The President may, whether an investigation or inquiry under this Act has been instituted or not, by notice require any person who is a producer, manufacturer, distributor, or seller (whether wholesale or retail) of any specified necessary commodity, or is a supplier of any specified necessary service, to furnish to the President or to any person authorised by the President in that behalf, and within a specified time and in a specified form, a return setting forth to the best of such person's knowledge and ability the following particulars or such of them as may be specified in such notice, namely—

Power of President to require returns of quantities, costs, prices, charges, &c.

(a) the quantity of any specified commodity in his possession or under his control at the date of such notice ;

(b)

*Profiteering Prevention.*

- (b) the cost to such person of such commodity ;  
 (c) the prices, wholesale and retail, at which he  
 sells or proposes to sell such commodity ;  
 5 (d) the cost to such person of the supply of such  
 service ;  
 (e) the charges which he makes or proposes to  
 make for the supply of such service ;  
 (f) the methods and principles in accordance with  
 which he arrives at such costs, prices, and  
 10 charges ; and  
 (g) such further particulars as may be specified in  
 such notice.

(2) Such notice may be either a notice given to  
 such person individually or a notice to such persons or a  
 15 class of such persons generally ; and such last-mentioned  
 notice shall be published in the Gazette and in prescribed  
 newspapers (if any).

(3) Such return shall be verified by statutory  
 declaration.

20 (4) Any return furnished by any person under  
 this section shall in any proceeding under this Act be  
 admissible in evidence against such person.

(5) Any person who—  
 25 (a) fails to comply with any of the requirements  
 of such notice ; or  
 (b) wilfully furnishes any false or misleading return,  
 shall be guilty of an offence against this Act.

**61.** (1) Any inspector may, with the authority in <sup>Powers of</sup>  
 writing of the President, whether an investigation or <sup>inspectors.</sup>  
 30 inquiry under this Act has been instituted or not—

- (a) enter upon the premises of any person having,  
 or suspected of having, in his possession or  
 under his control any necessary commodity, or  
 being a supplier of any necessary service ;  
 35 (b) require such person to give to such inspector  
 full and accurate information as to—  
 (i) the quantities of such commodity in such  
 person's possession or under his control and  
 the cost to such person of such commodity ;  
 40 and

(ii)

*Profiteering Prevention.*

- (ii) the prices or rates of profit, wholesale and retail, at which such person is selling such commodity ; and
- 5 (iii) the charges which such person is making for the supply of such service ; and
- (c) require such person to produce for examination by such inspector all books, documents, and writings relating to such commodity or service and to allow such inspector to make copies or
- 10 abstracts of such books, documents and writings or of any entries therein.

(2) If such person refuses to allow such inspector to enter upon his premises, or refuses or fails to give such information or to produce such books, documents,

15 and writings, or to allow such copies or abstracts to be made, or knowingly gives false or misleading information, he shall be liable in each case to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day after

20 the first during which such refusal or default continues.

**62.** The President may impound or retain any book, document, or writing produced to him or to any person appointed as aforesaid, but the person otherwise entitled to such book, document, or writing shall in lieu thereof

25 entitled to a copy certified as correct by the President, and such certified copy shall be receivable in all courts as evidence and as of equal validity with the original. And until such certified copy is supplied, the President may, at such times and places as he shall think proper,

30 permit such person, or in the case of a corporation any person appointed by the corporation, to inspect and make copies or abstracts of the book, document, or writing so impounded or retained or of any entries therein.

**63.** Any proclamation or notice issued or given under this Act, and published in the Gazette, and the contents of such proclamation or notice may be proved in any court by the production of—

- 35 (a) a copy of the Gazette purporting to contain such proclamation or notice ; or
- 40 (b) a copy of such proclamation or notice purporting to be printed by the Government Printer.

Power of  
President to  
impound  
books, &c.

Proof of  
proclamations  
and notices  
and contents  
thereof.

**64.**

*Profiteering Prevention.*

**64.** (1) The publication of a proclamation or notice in the Gazette shall be conclusive evidence in any court—

- 5 (a) that the fixed price of or fixed rate of profit on any commodity, or the fixed charge for or rate of profit on any service, as therein appearing has been duly and lawfully fixed ;
- 10 (b) that the commodity or service is a necessary commodity or service ; and
- (c) that all steps necessary for the fixing of such price or rate of profit or charge have been duly taken in accordance with the provisions of this Act.

(2) It shall not be competent for any person or  
 15 court by any means whatever to question the legality or correctness of such fixed price or rate of profit or charge, or whether any commodity, the fixed price of or rate of profit on which is declared in such notice is a necessary commodity or whether any service for the  
 20 supply of which a fixed charge or rate of profit is therein declared is a necessary service.

**65.** (1) The President may by notice published in the Gazette and in prescribed newspapers (if any)—

- 25 (a) require sellers, both wholesale and retail, of necessary commodities (whether the price thereof or rate of profit thereon has been fixed or not) to mark thereon in a prescribed manner the date of purchase, the cost price, and the selling price thereof, and such other information as may be prescribed ; and
- 30 (b) require the registration in a prescribed manner of letters, cyphers, or marks used by such sellers in connection with such commodities.
- (2) Any person who—
- 35 (a) fails to comply with any of the requirements of such notice ; or
- (b) wilfully uses any false or misleading letter cypher, or mark,

shall be guilty of an offence against this Act and shall  
 40 be liable to a penalty not exceeding fifty pounds.

For

Gazette notice to be conclusive evidence in certain cases, cf. Necessary Commodities Control Act, 1919, s. 33.

Power of President to require certain particulars to be marked on commodities, and to require the registration of marks.

*Profiteering Prevention.*

For a second offence the defendant shall be liable to a penalty not exceeding one hundred pounds, and for a third or subsequent offence to a penalty not exceeding two hundred pounds.

**66.** (1) So far as such publication is deemed by the President to be expedient in the public interest it shall be lawful for him from time to time to publish in such manner as he thinks fit any information obtained in the course of any investigation, inquiry, or proceeding under this Act, and any report, findings, recommendations, or comments made with respect thereto by the President, Commissioner, person, or magistrate before whom such investigation, inquiry, or proceeding takes place.

Power of President to publish information derived in course of judicial inquiry or investigation  
cf. Board of Trade Act, 1919 (N.Z.), s. 24.

(2) The publication of any such matter by the President and the republication by any other person of any matter published by the President or of any part of such matter shall be absolutely privileged, and the matter so published 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 such matter, whether on the ground of defamation or otherwise.

**67.** Any person who in any way resists, interferes with, hinders, or obstructs any inspector or other officer or person in the exercise or discharge of any power or duty under this Act shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds.

Resisting obstructing inspectors, &c  
cf. Necessary Commodities Control Act, 1919, s. 35.

**68.** Any person, or agent or servant of such person, who, without lawful excuse, reveals any matter or thing which has come to his knowledge in the course of the exercise by him of any power or authority conferred by this Act or, as the case may be, in his capacity of agent or employee of such person, shall be liable to a penalty not exceeding two hundred pounds.

Revealing information without lawfulexcuse.

**69.** (1) If in the opinion of the President any question of law arises in the course of any proceeding under this Act the President shall, if any party to such proceeding so desire, state a case for the determination of that question of law by the Supreme Court.

Submission of questions of law to Supreme Court.  
cf. *Ibid.* s. 37.

*Profiteering Prevention.*

5678

(2) The determination of the Supreme Court shall be binding upon the President and upon all parties to such proceeding.

**70.** No action shall lie against any person for any act or thing done by him under any authority conferred or purporting to be conferred upon him by or under this Act.

Freedom from liability. cf. *Ibid.* s. 34.

**71.** (1) The Governor may from time to time make regulations for carrying out the provisions and objects of this Act, and for prescribing the procedure thereunder.

Power to make regulations. cf. *Ibid.* s. 38.

(2) Any such regulation may impose any penalty not exceeding twenty pounds for each breach of the same, or, where the breach is a continuing one, any further penalty not exceeding five pounds for every day after the first during which such breach continues.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

[2s. 9d.]