NORTHERN TERRITORY OF AUSTRALIA

PRICE EXPLOITATION PREVENTION ACT

As in force at 1 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

PRICE EXPLOITATION PREVENTION ACT

An Act to make provision for the regulation of prices for the sale of certain goods and supply of certain services so as to prevent price exploitation arising consequential on the occurrence of natural or man-made disasters and to modify the effects of monopolies and the failure of competition in the marketplace to benefit consumers, and for other purposes

1 Short title and commencement

(1) This Act may be cited as the *Price Exploitation Prevention Act*.

(2) This Act shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

2 Purposes

The purposes of this Act are:

(a) to prevent price exploitation arising consequential on the occurrence (whether or not in the Territory) of natural or man-made disasters that may prevent consumers benefiting from the operation of a competitive market; and

(b) to prevent price exploitation that may occur because of the apparent failure of other laws to protect consumers from monopolies or to effectively ensure that consumers benefit from the operation of a competitive market within all or a part of the Territory.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

authorized officer means any person appointed by the Controller or a Deputy Controller to be an authorized officer for the purposes of this Act.

declared goods means any goods declared by the Administrator to be declared goods for the purposes of this Act.

declared service means any service declared by the Administrator to be a declared service for the purposes of this Act.

Deputy Controller means any person for the time being occupying the office of Deputy Controller of Prices.

price includes every valuable consideration whatsoever, whether direct or indirect.

rate includes every valuable consideration whatsoever, whether direct or indirect.

service means:

(a) any service supplied or carried on by any person or body of persons, whether incorporated or unincorporated, engaged in an industrial, commercial, business, profit making or remunerative undertaking or enterprise (including a professional practice);

(b) any rights or privileges for which remuneration is payable in the form of royalty, stampage, tribute or other levy based on volume or value of goods produced;

(c) any rights under an agreement for the hiring of goods;

(d) any rights under an agreement for the provision of lodging;

(e) any rights under an agreement (not being a lease) or a licence for the hiring of a hall; or

(f) any benefits under a contract of work and labour, or of work and labour and supply of materials.

the Controller means the person for the time being occupying the office, or performing the duties of the office, of Controller of Prices.

(2) A person who receives (otherwise than as agent) any valuable consideration from any other person in respect of the enjoyment by that other person of a service shall, for all purposes of this Act, be deemed to supply that service to that other person for the amount or value, or at the rate, as the case may be, of that valuable consideration.

(3) Where any agreement (including any lease) has been entered into, whether before or after the commencement of this Act, under which a person has become entitled to rights or privileges specified in paragraph (b), (c), (d) or (e) of the definition of ***service*** in subsection (1), the person from whom the rights or privileges have been acquired shall, for the purposes of this Act, be deemed to be

supplying those rights or privileges, at all times during which the rights or privileges continue, at the rate of the remuneration charged therefor from time to time.

(4) Where the maximum rate of any such remuneration is, by virtue of any order or notice made or given after the making of any such agreement, and whether before or after the commencement of this Act, fixed under or by virtue of this Act at a rate lower than the rate otherwise payable under any such agreement, the agreement shall, while that maximum rate is in force, be deemed to be varied by the substitution of the rate so fixed for the rate otherwise payable under the agreement in respect of the exercise or enjoyment of any such rights or privileges after the date of the commencement of this Act, or after the date on which the maximum rate becomes applicable, whichever is the later.

6 Controller

(1) The Commissioner of Consumer Affairs within the meaning of the *Consumer Affairs and Fair Trading Act* is the Controller of Prices, except during a period in which a person holds office under subsection (2).

(2) The Minister may, by notice in the *Gazette*, appoint a person to be the Controller of Prices for a period of not more than 3 years specified in the notice.

7 Deputy Controllers

(1) For the purposes of this Act, the Minister may appoint such Deputy Controllers of Prices as are necessary.

(2) It shall be the duty of each Deputy Controller to furnish reports and make recommendations to the Controller upon all matters referred to him by the Controller, and upon such other matters arising under this Act as he thinks fit.

8 Secrecy

(1) Subject to subsection (2), a person must not divulge or communicate information that the person has acquired by reason of being employed or engaged or otherwise concerned in, or in connection with, the administration or enforcement of this Act, except:

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration or enforcement of this Act;

(c) to the Commissioner of Police; or

(d) for the purposes of legal proceedings.

Maximum penalty: If the offender is a natural person – 400 penalty units.

If the offender is a body corporate – 2 000 penalty units.

(2) Despite subsection (1), the Controller or a person authorised by the Controller may communicate information that the Controller considers should be communicated, for the purpose of the administration or enforcement of a law of the Commonwealth, the Territory, or a State or other Territory of the Commonwealth, to a Minister or official who has responsibility for the administration or enforcement of the law.

(3) In this section:

Minister or official means a Minister, or an official, of the Crown in right of the Commonwealth or of the Territory or of any State or other Territory of the Commonwealth.

9 The Minister and others not compellable witnesses

A person who, at any time whilst this Act is in operation, is the Minister, the Controller or a Deputy Controller shall not, at any time, be a compellable witness as to any act done by him in the course of his duties in relation to or under this Act or as to any matter which comes to his knowledge in consequence of those duties:

(a) in any proceedings against any person for contravening or failing to comply with:

(i) a provision of this Act; or

(ii) a provision of an order made in pursuance of a provision of this Act, or in force by virtue of such provision;

(b) in any proceedings to which the Territory or the Controller or any officer is a party in relation to any matter arising under this Act; or

(c) in any proceedings in which the validity of an order made in pursuance of a provision of this Act or in force by virtue of such provision, is in issue.

10 Power to summon witnesses, &c.

(1) The Controller, a Deputy Controller, or any officer thereto authorized in writing by the Controller shall have power to:

(a) summon witnesses;

(b) take evidence on oath; and

(c) require the production of documents, books and papers.

(2) Witnesses summoned in pursuance of subsection (1) may be paid such fees and allowances as are fixed by the Minister.

11 Failure of witness to appear

A person, having been summoned as a witness in pursuance of section 10 shall not fail, without lawful excuse, to appear in obedience to the summons.

Maximum penalty: 100 penalty units.

12 Failure to take oath, produce documents or answer questions

A person, having appeared as a witness before the Controller or a Deputy Controller or an officer authorized in writing by the Controller, whether summoned so to appear or not, shall not refuse, without lawful excuse, to take an oath when required to do so, or to produce documents, books and papers, or to answer questions which he is lawfully required to answer.

Maximum penalty: 100 penalty units.

14 Power to obtain information

(1) The Controller, a Deputy Controller or an authorized officer may require any person:

(a) to furnish him with such information as he requires; or

(b) to answer any question put to him,

in relation to any goods or services, whether declared or not, or to any other matter arising under this Act.

(2) The Controller, Deputy Controller, or officer thereto authorized in writing by the Controller may require the information to be given, or the question to be answered, on oath and either orally or in writing.

(3) The Controller, Deputy Controller or officer thereto authorized in writing by the Controller may, by notice in writing, require the information to be given, or the question to be answered, in writing and at the place specified in the notice.

(4) A person shall not, when required under this section to furnish information or answer a question:

(a) refuse or fail to furnish the information or to answer the question; or

(b) give any information or make any answer which is false in any particular; or

(c) refuse or fail to do so orally or in writing, and at the place, as required under this section.

Maximum penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

(5) A person shall not be obliged to answer orally any question or questions unless he has first been informed by the Controller, or the Deputy Controller, or the authorized officer asking the question or questions that he is required and is obliged to answer by virtue of this section.

15 Production of balance-sheets and other accounts and statements

(1) A person who carries on a business of selling goods or supplying services (whether declared or not) shall, upon being required so to do by the Controller or a Deputy Controller by notice in writing, produce, in accordance with the notice, to the Controller or Deputy Controller, as the case may be:

(a) all balance-sheets, manufacturing, trading, profit and loss, production and revenue accounts and all production, financial and statistical and similar statements prepared by that person or on his behalf in relation to his business of selling goods or supplying or carrying on a service; and

(b) all documents of any kind (including documents of the kind referred to in section 57) which relate to the conduct of the business including the sale of the goods or the supply or carrying on of the service,

which are specified in the notice, and shall leave those balance-sheets, accounts, statements and documents with the Controller or the Deputy Controller, as the case may be, or furnish him with copies thereof.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) Where any balance-sheet, account, statement or document required to be produced to the Controller or to the Deputy Controller, as the case may be, is in the possession or control of any person other than the person to whose business it relates, that first-mentioned person shall, upon being required so to do by the Controller or the Deputy Controller, as the case may be, by notice in writing, produce to and leave with the Controller or the Deputy Controller, as the case may be, that balance-sheet, account, statement or document.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) A person who has been required to produce to the Controller or to the Deputy Controller, any balance-sheet, account, statement or document, shall, if the Controller or the Deputy Controller, as the case may be, so requires, permit the Controller or the Deputy Controller, as the case may be, to make a copy of, or to take an extract from, that balance-sheet, account, statement or document.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

16 Power to enter premises and inspect documents

(1) The Controller, a Deputy Controller or an authorized officer may enter upon and search any premises and inspect any documents, books and papers and may inspect and take samples of any stocks of declared goods or of any other goods.

(2) The Controller or a Deputy Controller or an authorized officer may impound or retain any documents, books and papers produced to him or inspected by him in pursuance of this section and may make

copies or abstracts of those documents, books and papers, or of any entries therein, but the person entitled to those documents, books and papers, shall, in lieu thereof, be entitled within a reasonable time to a copy certified as correct by the Controller or a Deputy Controller, and such certified copy shall be received in all courts as evidence and as of equal validity to the original.

17 Preventing Controller etc. from entering premises etc.

A person shall not prevent or attempt to prevent the Controller, a Deputy Controller, or an authorized officer, from entering upon any premises, or inspecting any documents, books and papers or inspecting or taking samples of any stocks of any declared goods, or any other goods, or from making copies or abstracts of any documents, books and papers, or of any entries therein.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

18 Controller etc. may require returns to be provided

(1) The Controller or a Deputy Controller may, by notice in writing, require a person to furnish to him, in accordance with the notice, a return setting forth to the best of the person's knowledge and ability the following particulars or such of them as are specified in the notice, namely:

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

(b) the cost to that person of those goods;

(c) the methods and principles in accordance with which he arrives at that cost;

(d) where the maximum price of the goods is not fixed in pursuance of or by virtue of this Act, the prices, wholesale or retail, at which, and conditions on which, he has sold, sells or proposes to sell the goods;

(e) the price, wholesale or retail, charged by the person on such date as the Controller or a Deputy Controller specifies, for similar goods and the conditions of any such sale; and

(f) such further particulars as are specified in the notice.

(2) The Controller or a Deputy Controller may, by notice in writing require a person or body of persons engaged in the supply or carrying on of any service to furnish to him, in accordance with the notice, a return setting forth to the best of the person's knowledge and ability such particulars relating to such service as are specified in the notice.

(3) A return furnished by a person under this section shall, in any proceedings under this Act, be admissible in evidence against that person.

(4) A person shall not:

(a) refuse or fail to comply with any of the requirements of a notice under this section; or

(b) wilfully furnish a false or misleading return.

Maximum penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

19 Power to declare goods and services

(1) The Administrator may, by notice in the *Gazette*, declare any goods to be declared goods for the purposes of this Act.

(2) The Administrator may, by notice in the *Gazette*, declare any service to be a declared service for the purposes of this Act.

(3) A declaration by the Administrator in pursuance of this section may be made generally or in respect of any part of the Territory or in respect of any person or body or association of persons.

20 Determination of maximum prices, rates etc.

(1A) The Controller may only make an order under subsection (1) or (5) if he or she is satisfied that the order is necessary to prevent price exploitation that may occur because of:

(a) a natural or man-made disaster (whether or not in the Territory) that has occurred and that may prevent consumers benefiting from the operation of a competitive market; or

(b) the apparent failure of other laws to protect consumers from monopolies or to effectively ensure that consumers benefit from the operation of a competitive market within all or a part of the Territory.

(1) The Controller may, with respect to any declared goods, from time to time by order:

(a) fix and declare the maximum price at which any such goods may be sold generally or in any part of the Territory; or

(b) declare that the maximum price at which any such goods may be sold:

(i) by any person, shall be such price as is fixed by the Controller by notice in writing to that person; or

(ii) by any body or association of persons, or any member of any such body or association, shall be such price as is fixed by the Controller by notice in writing to that body or association.

(2) In particular, but without limiting the generality of subsection (1), the Controller, in the exercise of his powers under that subsection, may fix and declare:

(a) different maximum prices according to differences in quality or description or in the quantity sold, or in respect of different forms, modes, conditions, terms, or localities of trade, commerce, sale or supply;

(b) different maximum prices for different parts of the Territory;

(c) maximum prices on a sliding scale;

(d) maximum prices on a condition or conditions;

(e) maximum prices for cash, delivery or otherwise, and in any such case inclusive or exclusive of the cost of packing or delivery;

(f) maximum prices on landed or other cost, together with a percentage thereon or a specified amount, or both;

(g) maximum prices according to or upon any principle or condition specified by the Controller; and

(h) maximum prices relative to such standards of measurement, weight, capacity, or otherwise howsoever as he thinks proper, or relative to prices charged by individual traders on any date specified by the Controller, with such variations (if any) as in the special circumstances of the case the Controller thinks fit, or so that such prices shall vary in accordance with a standard, or time, or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the

Controller.

(3) The power conferred by paragraph (a) of subsection (1) to fix and declare by order the maximum price at which any declared goods may be sold shall for all purposes be deemed to be validly exercised by an order which fixes any such price by reference to a list of prices approved by the Controller and issued by a body or association of persons which is recognized by the Controller:

(a) in the case of sales by a producer or manufacturer of goods – to be representative of the producers or manufacturers, as the case may be, of the goods in relation to the sale of which the price is so fixed; and

(b) in the case of sales by a trader in goods – to be representative of the traders in the goods, in relation to the sale of which the price is so fixed.

(4) Where the Controller makes an order in the form authorized by subsection (3), the Controller shall, on application by a seller of the goods to which the order relates, furnish him with a copy of the list of prices referred to in the order.

(5) The Controller may, with respect to any declared service, from time to time by order:

(a) fix and declare the maximum rate at which any such service may be supplied or carried on generally or in any part of the Territory; or

(b) declare that the maximum rate at which any such service may be supplied or carried on:

(i) by any person shall be such rate as is fixed by the Controller by notice in writing to that person; or

(ii) by any body or association of persons, or any member of any such body or association, shall be such rate as is fixed by the Controller by notice in writing to that body or association.

(6) In particular, but without limiting the generality of subsection (5), the Controller, in the exercise of his powers under that subsection, may fix and declare:

(a) different maximum rates according to differences in the quality, description or volume of the service supplied or carried on or in respect of different forms, modes, conditions, terms or localities of trade, commerce or supply;

(b) different maximum rates for different parts of the Territory;

(c) maximum rates on a sliding scale;

(d) maximum rates on a condition or conditions;

(e) maximum rates for cash or on terms;

(f) maximum rates according to or upon any principle or condition specified by the Controller; and

(g) maximum rates relative to such standards as he thinks proper, or relative to the rates charged by individual suppliers on any date specified by the Controller, with such variations (if any) as in the special circumstances of the case the Controller thinks fit, or so that such rates will vary in accordance with a standard, or time, or other circumstance, or shall vary with profits or wages, or with such costs as are determined by the Controller.

(7) The power conferred by paragraph (a) of subsection (5) to fix and declare by order the maximum rate at which any declared service may be supplied or carried on shall for all purposes be deemed to be validly exercised by an order which fixes any such rate by reference to a list of rates approved by the Controller and issued by a body or association of persons which is recognized by the Controller to be representative of the persons who supply or carry on the service to which the order relates.

(8) Where the Controller makes an order in the form authorized by subsection (7) the Controller shall, on application by any person who supplies or carries on the service to which the order relates, furnish him with a copy of the list of rates referred to in the order.

(9) The Controller shall not exercise the powers conferred by paragraph (b) of subsection (1) or paragraph (b) of subsection (5) to fix by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association shall sell any goods or supply or carry on any service, unless that body or association:

(a) is recognized by the Controller as representative of the producers or manufacturers of or traders in those goods or of the persons who supply or carry on that service; and

(b) has requested the Controller in writing to exercise those powers.

(10) Where the Controller fixes by notice in writing to a body or association of persons the maximum price or rate at which the members of that body or association may sell any goods or supply or carry on any service:

(a) the secretary or other proper officer of the body or association shall:

(i) as soon as practicable after receiving the notice:

(A) notify in writing the Controller that the notice has been received; and

(B) notify in writing the members about the contents of the notice and the date on which it was received;

(ii) make a record of the time at which and the manner in which he communicates to each member the matters specified in subparagraph (i); and

(iii) produce the record for inspection on demand by the Controller;

(b) the contents of the notice are to be presumed, unless the contrary is proved, to have been notified to a member at the time at which the notice to the members under paragraph (a)(i)(B) would, having regard to the means by which the secretary or other proper officer gave the notice, ordinarily have been received; and

(c) the notice shall take effect, in respect of any member, upon communication to him of its contents or upon the expiration of 7 days from its receipt by the secretary or other proper officer of the body or association, whichever is the earlier.

(11) The powers conferred by paragraph (a) of subsection (1) or by paragraph (a) of subsection (5) to fix and declare by order the maximum price at which any declared goods may be sold or the maximum rate at which any declared service may be supplied or carried on shall for all purposes be deemed to be validly exercised by an order which fixes and declares any such price or rate by reference to an order made under an Act of a State or another Territory of the Commonwealth relating to the regulation of prices in the State or Territory.

(12) An order under this section may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the order (including provisions requiring the keeping of records of matters relevant to the operation of the order).

(13) The mere production of an order made in pursuance of this section fixing and declaring:

(a) by reference to a list of prices, the maximum price at which any declared goods may be sold; or

(b) by reference to a list of rates, the maximum rate at which any declared service may be supplied or carried on,

or of a paper purporting to be a copy of any such order, shall in all courts be evidence that the list was at the date of the order approved by the Controller and issued by a body or association of persons recognized by the Controller to be:

(i) representative of the producers or manufacturers of the goods;

(ii) representative of the traders in the goods; or

(iii) representative of the persons who supply or carry on the service,

as the case may be.

(14) An order made under this section shall take effect upon the date specified in the order or, if no date is so specified, upon the date of the publication of the *Gazette* containing the order or a notification of the making of the order.

(15) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

(16) An order made under this section:

(a) is of no effect unless a date is specified in the order under subsection (15); and

(b) ceases to be of effect after the date specified under subsection (15), unless the order is earlier revoked.

21 Sale of goods and supply of service in one transaction

(1) The powers of the Controller of or in relation to fixing and declaring the maximum price at which any declared goods may be sold and the powers of the Controller of or in relation to fixing and declaring the maximum rate at which any declared service may be supplied or carried on shall be deemed to extend to and in relation to the fixing and declaring of the maximum remuneration for the sale of any declared goods and the supply of any declared service for an

undivided remuneration, and the provisions of this Act (whether relating to the powers of the Controller or to any other matter) shall apply, with the necessary changes, accordingly.

(2) For the purposes of sections 29, 31, 33, 34, 40, 50, 51 and 57, a transaction in respect of which a maximum remuneration has been fixed under subsection (1) shall be deemed to be the supply of a declared service at a rate equal to the undivided remuneration charged, and the maximum remuneration so fixed shall be deemed to be the maximum rate fixed under this Act for the supply of that service.

(3) For the purposes of this Act, and of any order or notice under this Act, unless the contrary intention appears:

(a) the sale of any goods shall be deemed to include the supply, in connection with the sale (whether or not for a separate remuneration) of any service customarily supplied by vendors in connection with such a sale without any separate remuneration; and

(b) the supply or carrying on of any service shall be deemed to include the sale or supply, in connection with the service (whether or not for a separate price or remuneration) of any goods customarily sold or supplied by persons supplying or carrying on such a service without any separate price or remuneration.

(4) For the purposes of this Act, and of any order or notice under this Act the sale of any declared goods and the supply of any declared service for an undivided remuneration, if:

(a) no maximum remuneration applicable to the transaction as a whole is fixed under this Act; and

(b) the transaction as a whole is not one which is, by reason of subsection (3), deemed to be either a sale of goods or the supply of a service,

shall be deemed to be:

(c) a sale of the declared goods at a price equal to so much of the undivided remuneration as bears to the whole of the undivided remuneration the same proportion as the maximum price fixed under this Act for the sale of the goods bears to the sum of that fixed price and the maximum rate fixed under this Act for the supply of the service; and

(d) a supply of the service at a rate equal to the remaining part of the undivided remuneration.

22 Transactions may be declared to be sales

(1) The Controller may, by order, declare that where a person (in this section referred to as ***the agent***) purchases goods (whether declared goods or not) as agent, or purported agent, for another person (in this section referred to as ***the principal***) and processes or treats the goods and delivers goods resulting from the processing or treatment to the principal, the carrying out of the agency (or purported agency) and the performance of the other services by the agent shall, for the purposes of this Act, be deemed to be a sale of the goods so delivered by the agent to the principal at a price equal to the sum of the amounts paid or payable by the principal to the agent in respect of the agency and services (including the price paid by the agent for the goods purchased by him) and the order shall, for the purposes of this Act, have effect according to its tenor.

(2) The Controller may, either generally by order or specifically by notice in writing, exempt any person or class of persons from the operation of any order made in pursuance of this section.

23 Power to prohibit certain transactions

(1) Where the Controller is of opinion that it is necessary so to do in order to prevent a person (in this section referred to as ***the vendor***) who carries on the business of selling declared goods or supplying declared services from continuing to operate a scheme which, in the opinion of the Controller:

(a) involves a departure from his normal course of trading;

(b) would not be operated but for the provisions of this Act or of an order thereunder; and

(c) has the effect that the real cost (taking into account losses involved in transactions connected with the scheme) to any purchaser or purchasers of goods from the vendor, of any declared goods so purchased, or to any person or persons to whom services are supplied by the vendor, of any declared services so supplied, is more than the maximum price or rate fixed under this Act for the sale of those goods or the supply of those services,

he may, by notice in writing directed to the vendor, specify a class of transactions (being, in the opinion of the Controller, a class of transactions which is being used for the purposes of the scheme) to be a class of transactions to which this section shall apply.

(2) Except with the consent of the Controller, a person to whom a notice under this section (duly given) is directed shall not, while the notice remains unrevoked, enter into a transaction included in a class of transactions specified in the notice.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) A notice under this section shall specify the class of declared goods or declared services in relation to which, in the opinion of the Controller, the scheme is being operated, but shall have full force and effect notwithstanding that it does not specify or describe the scheme which, in the opinion of the Controller, makes the notice necessary.

(3A) The Controller must specify in a notice under this section the date, not more than 12 months after the date on which the notice is given, after which the notice is to cease to be of effect.

(3B) A notice under this section:

(a) is of no effect unless a date is specified in the notice under subsection (3A); and

(b) ceases to be of effect after the date specified under subsection (3A), unless the notice is earlier revoked.

(4) Any reference in this section to a person shall be deemed to include a reference to persons included in a class of persons, and this section shall apply, with the necessary changes, accordingly.

24 Power of Minister to suspend order, &c.

(1) Notwithstanding anything contained in this Act, the Minister may request the Controller to consider further any matter dealt with by an order made under section 20 or any part of any such order, and the Controller shall, within 28 days from the date of any request so made, report thereon to the Administrator.

(2) Notwithstanding anything contained in this Act, the Minister may, by notice in the Gazette, suspend the operation of an order made under section 20, or a part of any such order, for a period not exceeding 28 days from the date of his request.

(3) Upon the publication of the notice, the maximum price or rate (if any) which prevailed prior to the making of the order which has been suspended shall apply during the period of the suspension.

(4) The Controller shall:

(a) within the period specified in the suspension, report thereon to the Minister; and

(b) within that period confirm, amend, vary or revoke the order or part so suspended in conformity with his report to the Minister,

and, on receipt of the report of the Controller, the Minister shall, by notice in the *Gazette*, remove the suspension.

25 Power to prohibit sale of goods or supply of services before maximum price or rate fixed

(1) The Controller or a Deputy Controller may, by order, provide that a person shall not sell any declared goods, or supply or carry on any declared service, unless and until that person has made a written request to the Controller or Deputy Controller to fix the maximum price at which the goods may be sold or the maximum rate at which the service may be supplied or carried on and the Controller or Deputy Controller has fixed the maximum price or the maximum rate accordingly.

(2) A person must comply with an order made under subsection (1).

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

(4) An order made under this section:

(a) is of no effect unless a date is specified in the order under subsection (3); and

(b) ceases to be of effect after the date specified under subsection (3), unless the order is earlier revoked.

26 Inter-wholesale transaction

(1) Subject to this section, a wholesaler (in this section referred to as ***the buyer***) who purchases any declared goods from any other wholesaler (in this section referred to as ***the seller***) shall not sell or offer for sale those goods at a price in excess of the cost to the buyer.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) The buyer may sell or offer for sale any such goods at a price not greater than the maximum price at which the seller was entitled to sell them in similar quantities at the time of sale, and the onus of ascertaining that maximum price shall be upon the buyer.

(3) A wholesaler who purchases any declared goods from a retailer shall not sell or offer for sale those goods at a price in excess of the cost to the retailer.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3A) The onus of finding out the cost of goods to the retailer is on the wholesaler.

(4) Notwithstanding anything contained in subsection (1), the buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the buyer, the Controller declares to him in writing.

(5) For the purposes of this section, the buyer may request the seller of goods to supply him with such information as he deems necessary to enable him to comply with the provisions of this section.

(5A) A seller of goods who is requested under subsection (5) by a buyer of the goods to supply information to the seller must, as soon as reasonably practicable, supply the information in writing to the buyer.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(6) The Controller may, by order, exempt any person or class of persons from the whole or part of the requirements of this section.

(7) In this section, ***wholesaler***, in respect of any goods, means a person who purchases those goods and sells or supplies them for resale or for manufacture for sale.

(8) For the purposes of this section ***cost*** means:

(a) in relation to any goods (not being goods to or in respect of which an order under subsection (9) applies) – the price paid or payable by the wholesaler who purchased the goods (in this definition referred to as ***the purchaser***) to the wholesaler or retailer from whom he purchased them, plus any expenses which:

(i) were specifically incurred by the purchaser in placing the goods at the point of delivery by him for the purposes of a sale by him; and

(ii) at the time of the sale or offer for sale by the purchaser, were recorded:

(1) on a copy of an invoice for the goods which is held by the purchaser; or

(2) in the books and accounts of the purchaser in such a manner that they can be readily identified and clearly associated with the goods; or

(b) in relation to any goods to or in respect of which an order under subsection (9) applies – cost as defined in that order.

(9) For the purposes of this section the Controller may, by order, define the meaning of the term ***cost***, in relation to:

(a) any class of sale specified in the order;

(b) any class of goods so specified; or

(c) any class of persons so specified.

27 Inter-retail transaction

(1) Subject to this section, a retailer (in this section referred to as the ***retail buyer***) who purchases any declared goods from any other retailer (in this section referred to as the ***retail seller***) shall not sell or offer for sale those goods at a price in excess of the cost to the retail buyer.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) The retail buyer may sell or offer for sale goods at a price not greater than the maximum price at which the retail seller was entitled to sell them in similar quantities at the time of sale, and the onus of ascertaining that maximum price shall be upon the retail buyer.

(3) Notwithstanding anything contained in subsection (1), the retail buyer may sell or offer for sale any goods at a price not exceeding the maximum price which, after application by the retail buyer, the Controller declares to him in writing.

(4) For the purpose of this section, the retail buyer may request the retail seller of goods to supply him with such information as he deems necessary to enable him to comply with the provisions of this section.

(4A) A retail seller of goods who is requested under subsection (4) by a buyer of the goods to supply information to the seller must, as soon as reasonably practicable, supply the information in writing to the buyer.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(5) The Controller may, by order, exempt any person or class of persons from the whole or part of the requirements of this section.

(6) For the purposes of this section ***cost*** means:

(a) in relation to any goods (not being goods to or in respect of which an order under subsection (7) applies) – the price paid or payable by the retail buyer to the retail seller, plus any expenses which:

(i) were specifically incurred by the retail buyer in placing the goods at the point of delivery by him for a sale by him; and

(ii) at the time of the sale or offer for sale by the retail buyer were recorded:

(1) on a copy of an invoice for the goods held by the retail buyer; or

(2) in the books and accounts of the retail buyer in such a manner that they can be readily identified and clearly associated with the goods; or

(b) in relation to any goods to or in respect of which an order under subsection (7) applies – cost as defined in that order.

(7) For the purposes of this section the Controller may, by order, define the meaning of the term ***cost***, in relation to:

(a) any class of sale specified in the order;

(b) any class of goods so specified; or

(c) any class of persons so specified.

28 Statements that prices approved by Controller prohibited without Controller's approval

(1) Subject to subsection (2), a person shall not:

(a) publish, print, circulate, announce (by way of broadcast by wireless transmission) or make public in any other manner whatsoever, or cause to be published, printed, circulated, announced (by way of broadcast by wireless transmission) or made public in any other manner whatsoever, any notification relating to any goods or service; or

(b) sell or offer for sale any goods having affixed thereto or associated therewith any label, brand or other mark,

containing words stating or implying that any specified price or rate with respect to any such goods or service has been approved by the Controller.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) A person may, with the approval of the Controller, include in any such notification a statement in such form as is approved by the Controller, including an approval number allotted by the Controller to the particular approval, stating that a price or rate specified therein has been approved by the Controller.

29 Sale of goods subject to condition

A person shall not, unless the consent in writing of the Controller has first been obtained, sell or offer for sale any declared goods, or supply or offer to supply any declared service, subject to a condition requiring the buying of any other goods or the supply of any other services, whether declared or not declared.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

30 Offence to sell at price higher than maximum price

(1) A person shall not:

(a) sell or offer for sale any declared goods at a greater price than the maximum price fixed in relation thereto by or under this Ordinance for the sale of those goods; or

(b) without the prior approval of the Controller, sell or offer for sale any declared goods upon terms or conditions different from the terms or conditions upon which substantially identical goods were sold by him on the prescribed date if such sale or offer for sale upon such terms and conditions would result directly or indirectly:

(i) in a greater price than the maximum price fixed in relation thereto being obtained; or

(ii) in any other manner to the advantage of the seller.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) In addition to any penalty that may be imposed for a breach of subsection (1), the court may order the defendant to refund to the purchaser the difference between the maximum price so fixed and the price at which the goods were sold.

(3) A certificate by the Controller or a Deputy Controller specifying the difference between the maximum price fixed, in relation to the goods the sale of which is the subject of any proceedings under subsection (1), and the price at which the goods were sold shall, for the purposes of subsection (2), be prima facie evidence of the matters stated therein.

(4) For the purposes of this section, a person on whose behalf or at whose place of business any declared goods are sold or offered for sale at a greater price than the maximum price fixed, in relation thereto, under this Act, for the sale of those goods, whether the goods are sold or offered for sale contrary to the instructions of the person or not, shall be deemed to have contravened the provisions of this section, unless the court is satisfied that the sale or offering for sale took place without his knowledge and that he has systematically used all due diligence to secure observance of this Act.

(5) For the purposes of this section, a person shall be deemed to offer goods for sale at a particular price if he notifies that price as the price proposed by him for a sale of the goods by the publication of a price list, by exposing the goods for sale in association with a mark indicating price, by furnishing a quotation or otherwise howsoever.

(6) In this section, ***prescribed date***, in relation to the sale or offer for sale of any declared goods, means such date as is declared to be the prescribed date in any order made with respect to those goods under section 20.

31 Offence to charge excessive rate for service

(1) A person shall not:

(a) supply or offer to supply any declared service at a higher rate than the maximum rate fixed in relation thereto under this Act; or

(b) without the approval of the Controller, supply or offer to supply any declared service upon terms and conditions different from the terms and conditions upon which a substantially identical service was supplied by him on the prescribed date if such supply or offer to supply upon such terms and conditions would result directly or indirectly:

(i) in a greater rate than the maximum rate fixed in relation thereto being obtained; or

(ii) in any other manner to the advantage of the supplier.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) In addition to any penalty that may be imposed for a breach of subsection (1), the court may order the defendant to refund to the person to whom the service was supplied the difference between the maximum rate so fixed and the rate at which the service was supplied.

(3) For the purposes of this section, a person on whose behalf or at whose place of business any declared service is supplied at a higher rate than the maximum rate fixed in relation thereto under this Act, whether the service is supplied at such rate contrary to the instructions of such person or not, shall be deemed to have contravened the provisions of this section, unless the court is satisfied that the supply took place without his knowledge and that he has systematically used all due diligence to secure observance of this Act.

(4) For the purposes of this section, a person shall be deemed to offer to supply a service at a particular rate if he notifies that rate as the rate proposed by him for the supply of that service by the publication of a list of rates or prices, by furnishing a quotation, or otherwise howsoever.

(5) In this section, ***prescribed date***, in relation to the supply or offer to supply any declared service, means such date as is declared to be the prescribed date in any order made with respect to that service under section 20.

32 Enforcement of orders for refunds

An order made by a court under subsection (2) of section 30, or subsection (2) of section 31, may be enforced as if the order were a judgment of that court in favour of the person to whom the refund has been ordered to be made.

33 Sale of declared goods with undeclared goods, &c.

(1) It shall be a defence to a proceeding for an offence against section 30 or 31, if the person alleged to have contravened either of those sections proves:

(a) that the declared goods or declared service, or both, were supplied with undeclared goods or an undeclared service, or both, at a total price; and

(b) that the price for that portion of the total sale represented by the undeclared goods or undeclared service, as the case may be, was reasonable having regard to the cost or current market value of the undeclared goods or undeclared service.

(2) In this section:

undeclared goods means goods other than declared goods. and

undeclared service means a service other than a declared service.

34 Offering to pay higher price for declared goods etc.

(1) A person shall not knowingly:

(a) pay for or offer to pay for;

(b) hold himself out as being willing to pay for, or to offer to pay for, or as being willing or able to obtain another person to pay for; or

(c) offer to act in connection with the payment for,

any declared goods or declared service at a greater price or rate (whether by way of premium or otherwise howsoever) than the maximum price or rate fixed in relation thereto by or under this Act for the sale of those goods or the supply of that service.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) Where the maximum price or rate relevant to any prosecution for a contravention of this section is a price or rate fixed by notice in writing to any person or body or association of persons, it shall be a defence to the prosecution for the person charged to prove that he was not aware of the fact that the price or rate had been so fixed.

35 Delivery of goods less in quantity or inferior in quality to those sold

(1) A person must not, without the consent of the Controller, deliver or offer to deliver or knowingly accept, or offer to accept, delivery of:

(a) a quantity of declared goods, the maximum price of which has been fixed under this Act, that is less than the quantity agreed to be sold; or

(b) goods inferior in quality to declared goods, the maximum price of which has been fixed under this Act, that were agreed to be sold.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) Subsection (1) does not apply to the delivery of goods if:

(a) the agreement for the sale of the goods provides for delivery of the goods by instalments over a period; and

(b) all of the goods are delivered within the time specified in the agreement.

36 Averment of prosecution

(1) In any prosecution for a contravention of or failure to comply with any provision of this Act or any order made in pursuance of or in force by virtue of this Act, the averment of the prosecutor made in writing and served on the defendant as provided by this section shall be prima facie evidence of the matter or matters averred.

(2) Subsection (1) shall apply to any matter so averred although:

(a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or

(b) the matter averred is a mixed question of law and fact, but in that case the averment shall be prima facie evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall neither be increased nor diminished by reason of this section.

(4) This section shall not apply to an averment of the intent of the defendant.

(5) No averment shall be made under this section unless the Director of Public Prosecutions is satisfied that the averment is reasonably necessary for the due administration of justice and will not impose hardship upon or occasion injustice to the defendant and certifies in writing accordingly on the paper containing the averment.

(6) An averment shall not be evidence for the purposes of this section unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring this attendance before the court.

(7) Service of a copy of the paper containing the averment may be proved in the same manner as service of the process requiring the defendant's attendance before the court may be proved.

(8) Upon the hearing of any information or complaint in respect of a contravention or failure to comply with any provision of this Act or any order made in pursuance of or in force by virtue of this Act, the court may, if the amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(9) If in any such case the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

37 Prosecutions where price fixed is lower or lowest of more than one price

Where a maximum price or rate fixed under this Act is expressed to be the lower or lowest of 2 or more prices or rates, then, for the purposes of any prosecution for a contravention of this Act, the prosecutor may, in the information, complaint or indictment, recite as that maximum price or rate any one of those prices or rates, and, for the purposes of that prosecution (including the proof of the maximum price or rate so recited) and for any purpose arising out of that prosecution, the order or notice by which the maximum price

or rate was so fixed shall be deemed to have fixed as the relevant maximum price or rate the price or rate so recited.

38 Meaning of *wholesale* and *retail*

(1) In this Act and in any order made thereunder fixing the maximum price for the sale of any declared goods, the following expressions shall, unless the contrary intention appears in this Act or the order, have the meanings respectively assigned to them hereunder:

landed cost means the actual cost of landing the declared goods in the store in Australia of the person to or for whom, or on whose behalf, the declared goods were originally supplied or ordered or at such other point of delivery as is approved by the Controller.

retail, in relation to any such sale, shall be deemed to refer to a sale to a person for the purposes of consumption or use.

wholesale, in relation to any such sale, shall be deemed to refer to the sale or supply to a person for the purpose of re-sale (including, but without affecting the generality hereof, the sale or supply by an importer, manufacturer or producer to a manufacturer or a wholesale or retail trader).

(2) The maximum price fixed shall be deemed to include any charge for wrapping the goods.

39 Refusal etc. to sell at fixed price

(1) A person who has in his custody or under his control any declared goods for sale in respect of which a maximum price has been fixed under this Act, shall not refuse or fail on:

(a) demand of any quantity of the declared goods; and

(b) tender of payment at the price so fixed for the quantity demanded,

to supply any such declared goods in the quantity demanded.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) 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 the declared goods, or, after making reasonable provision for private consumption or use, had not a sufficient quantity of the declared goods in his custody or under his control to supply the quantity demanded or a reasonable quantity, in addition to the quantity required to satisfy all other contracts, then subsisting, under which he was obliged to supply quantities of the declared goods for use or consumption and the ordinary requirements of his business;

(b) the defendant was a wholesale trader in the declared goods and the person who demanded to be supplied was not a manufacturer or a retail trader therein, or in any declared goods made or partly made therefrom; or

(c) the defendant was acting in accordance with a practice for the time being approved by the Controller.

(3) For the purpose of determining what is a reasonable quantity of any declared goods within the meaning of this section, regard shall be had to all the circumstances of the case, including the question whether the person who demanded to be supplied was or was not, at the time of the demand, carrying on business as a trader in the declared goods demanded, either alone or with other goods.

40 Refusal to perform service at declared rate

(1) A person who supplies or carries on any declared service in respect of which a maximum rate has been fixed under this Act shall not refuse or fail on:

(a) demand for the supply of the declared service; and

(b) tender of payment at the rate fixed for the service,

to supply the declared service.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) 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 portion of the declared service demanded, or, after making reasonable provision for his private use, sufficient service was not under his control to supply the service demanded or a reasonable portion, in addition to the service required to satisfy all other contracts, then subsisting, under which he was obliged to supply that service, and the ordinary requirements of his business; or

(b) the defendant was acting in accordance with a practice for the time being approved by the Controller.

(3) For the purpose of determining what is a reasonable portion of any declared service within the meaning of this section, regard shall be had to all the circumstances of the case, including the question whether the portion of the service demanded represented the normal requirements of the person who demanded its supply to him.

41 Alteration of size of containers, quantity or ingredients of declared goods

(1) A person shall not, without the written consent of the Controller:

(a) pack or put up any declared goods in a container of a size smaller than the container ordinarily used by him for packing or putting up goods of the same kind at the date of the commencement of this Act;

(b) pack or put up in a container a quantity of declared goods smaller than the quantity of goods of the same kind ordinarily packed or put up by him in a container of that size at the date of the commencement of this Act;

(c) alter the formula or recipe ordinarily used by him at the date of the commencement of this Act in the manufacture or production of any declared goods;

(d) manufacture declared goods of a quality inferior to the quality of goods of the same kind manufactured by him or a predecessor in business on or immediately prior to the date of fixation, by order made under or in force by virtue of this Act, of the maximum price of those declared goods; or

(e) sell or offer for sale as declared goods any goods which are adulterated or which are falsely described, packed or enclosed for sale or labelled as declared goods.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) For the purposes of this section, proof that at the date of the commencement of this Act any person, dealing in the ordinary course of trade in any declared goods in respect of which any proceedings have been instituted, sold or had for sale:

(a) any declared goods purporting to have been packed or put up by the defendant in a container of a certain size, shall be evidence that that was the size of the container ordinarily used by the defendant at the date of the commencement of this Act in the packing or putting up of the declared goods;

(b) any declared goods purporting to have been packed or put up by the defendant in a container containing a certain quantity of the declared goods, shall be evidence that that was the quantity ordinarily packed or put up by the defendant at the date of the commencement of this Act in a container of that size;

(c) any declared goods (purporting to have been manufactured or produced by the defendant) which appear by analysis or otherwise to have been manufactured or produced in accordance with a certain formula or recipe, shall be evidence that that formula or recipe was that ordinarily used by the defendant at the date of the commencement of this Act in the manufacture or production of the declared goods.

(3) It shall be a defence to a prosecution for an offence against the provisions of paragraph (c) of subsection (1) if the defendant proves that:

(a) the alteration in the formula or recipe was not made in anticipation or consequence of any action under this Act in respect of the declared goods the formula or recipe of which was altered; and

(b) the declared goods manufactured or produced in accordance with the formula or recipe as altered were not inferior to those manufactured or produced prior to the alteration.

42 Speculating in goods

(1) A person, not being a bona fide wholesale or retail trader or a bona fide consumer or user, shall not purchase or agree to purchase or otherwise acquire (except by way of bona fide security only) any goods or any right or interest therein.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) In any prosecution for an offence against subsection (1) it shall be a sufficient defence to show that the purchase or agreement had not the object or the effect of increasing, directly or indirectly, the price of the goods to the consumer or user.

(3) This section shall not apply in relation to the purchase or acquisition of goods at a sale of those goods by auction upon the winding up of a business.

43 Corners and restrictions on circulation of goods

(1) A person shall not, with intent to corner the market or restrain trade therein, hold or buy up any goods and store or retain them in his possession or under his control, whether the maximum price thereof has or has not been fixed and declared under this Act.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) In addition to any penalty that may be imposed for a contravention of subsection (1), the court may order that the whole of such goods, or such quantity thereof as the court so orders, shall be forfeited to the Crown.

44 Forfeiture of goods to Crown

If the Minister, upon report by the Controller, is satisfied that any person:

(a) is buying up or storing or retaining in his possession or under his control any goods, whether a maximum price thereof has or has not been fixed under this Act, with intent to corner the market or to restrain trade therein; or

(b) has in his possession or under his control any such goods, and has failed, on demand and tender of the maximum price, to supply in accordance with the provisions of section 39 any particular person or persons with those goods; or

(c) has purchased or acquired or agreed to purchase or acquire any such goods in contravention of section 42,

the Minister may make an order that the goods or any specified quantity thereof be forfeited and thereupon the whole of the goods, or such specified quantity thereof, shall be forfeited to the Crown.

45 Seizure and disposal of forfeited goods

When any goods have been forfeited under section 43 or section 44, any authorized officer or any member of the Police Force may:

(a) seize any goods which he has reasonable cause to believe are forfeited under this Act;

(b) store any such goods in any place approved by the Controller or a Deputy Controller for the purpose; and

(c) sell or otherwise dispose of the goods to such persons or bodies and at such times and in such manner and upon such terms and conditions, as the Minister directs.

46 Sales by auction

(1) The Controller or a Deputy Controller may, by order or by notice in writing to any person selling or offering for sale by auction any declared goods, prohibit any such sale or require such terms and conditions as he thinks fit to be complied with in connection with any such sale.

(2) A person shall not sell, or offer to sell, by auction, any declared goods in contravention of any order or notice under this section.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) The Controller must specify in an order or notice under this section the date, not more than 12 months after the date on which the order is made or the notice is given, after which the order or notice is to cease to be of effect.

(4) An order or notice under this section:

(a) is of no effect unless a date is specified in the order or notice under subsection (3); and

(b) ceases to be of effect after the date specified under subsection (3), unless the order or notice is earlier revoked.

47 Payment to former owner of whole or portion of proceeds of sale

When any forfeited goods have been sold under paragraph (c) of section 45, the Minister may, under special circumstances, direct that the whole or any portion of the proceeds of the sale of the goods, less any expenses incurred in connexion with their seizure, storage and sale, be returned to the person who was the owner of the goods prior to their forfeiture.

48 Delivery of invoice or docket with goods

(1) The Controller may, by order, provide that a person who sells any goods shall deliver with the goods, or within such time after the delivery of the goods as is specified in the order, an invoice or docket containing such particulars as are so specified.

(2) A person must comply with an order made under subsection (1).

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

49 Power to search for goods

Any authorized officer or any member of the police force may at any time in the day or night enter into and search any premises or vessel or part thereof, where any goods forfeited or liable to seizure under this Act are, or are 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 goods are or are supposed to be.

50 Particulars with respect to declared goods and declared services to be exhibited

(1) The Controller may, by order, require any person who sells or has for sale any declared goods or who supplies or carries on any declared service, the maximum price of, or the maximum rate for,

which is fixed by or under this Act, to exhibit, in such position and in such manner as are specified in the order, such particulars relating to any such goods or services as are so specified.

(2) A person must comply with an order made under subsection (1).

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

(4) An order made under this section:

(a) is of no effect unless a date is specified in the order under subsection (3); and

(b) ceases to be of effect after the date specified under subsection (3), unless the order is earlier revoked.

51 Advertisements as to declared goods and services

(1) The Controller may, by order, make provision for the inclusion in advertisements, or in any class of advertisements, published by persons generally, or by any specified person, or by persons included in any class of persons, in relation to declared goods or declared services, of such particulars (including particulars as to the maximum price or rate fixed by or under this Act) as are specified in the order.

(1A) The Controller must, in an order made under this section, specify the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

(1B) An order made under this section:

(a) is of no effect unless a date is specified in the order under subsection (1A); and

(b) ceases to be of effect after the date specified under subsection (1A), unless the order is earlier revoked.

(2) A person shall not publish, or cause to be published, any advertisement in relation to declared goods or services which does not include the particulars required to be specified in pursuance of any order under this section which is applicable to that advertisement.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) An advertisement shall be deemed to be published within the meaning of this section if it is:

(a) inserted in any newspaper, periodical or other publication printed or published in Australia;

(b) exhibited to public view in, or on, any building, vehicle or place (whether or not a public place and whether on land or water);

(c) contained in any document sent or delivered gratuitously to any person or thrown or left upon premises in the occupation of any person; or

(d) broadcast by wireless transmission.

52 Tickets etc. to be attached to declared goods

(1) The Controller may, by order, require any person who sells or has for sale any declared goods the maximum price of which is fixed by or under this Act, to attach to, or display with, such of those goods as the Controller specifies, a ticket or label in such form as the Controller determines, setting forth such particulars relating to those goods as the Controller specifies, or otherwise to mark them with those particulars in such manner as the Controller determines.

(2) A person must comply with an order made under subsection (1).

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) The Controller must, in an order made under this section, specify the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

(4) An order made under this section:

(a) is of no effect unless a date is specified in the order under subsection (3); and

(b) ceases to be of effect:

(i) after the date specified under subsection (3);

(ii) on the date on which the order is revoked; or

(iii) after the expiry of the order under section 20 fixing and declaring the maximum price of the goods or service to which the order made under this section relates,

whichever is earlier.

53 Orders

(1) An order under this Act shall take effect upon the publication in the *Gazette* of:

(a) the order; or

(b) a notification of the order having been made, giving a brief description of the nature of the order and stating the place where copies of the order may be purchased.

(2) Without limiting the generality of subsection (1), an order under this Act which is expressed to apply to a particular person or persons may be served upon any such person by delivering it to him by hand, or by sending it by post in a letter addressed to him at his last known or usual place of abode or place of business, and shall take effect, in relation to that person, when it is so served upon him.

54 Manner in which notice in writing may be given

A notice in writing for the purposes of this Act may be given:

(a) to any person, by delivering it by hand or by sending it by post in a letter addressed to that person at his last known or usual place of abode or place of business;

(b) to any body or association of persons, by delivering it by hand to the secretary or other proper officer of the body or association, or by sending it by post in a letter addressed to him at the last known or usual place of business of the body or association; or

(c) to persons generally or to persons included in a class of persons or to persons in any area, by publication of the notice in a newspaper circulating in the Territory.

55 Application of orders, &c.

Any order, declaration or notice authorized to be made or given under this Act may be made or given so as to apply, according to its tenor, to:

(a) persons generally;

(b) all or any persons included in a class of persons;

(c) in the case of an order, any person to whom a notice is given in pursuance of the order;

(d) all or any persons in any area;

(e) any particular person;

(f) the sale of goods or supply of a service or services to a particular person by a particular person;

(g) goods or services generally;

(h) any class of goods or any class of services;

(i) all or any goods or services in any area; or

(j) specific goods or a specific service.

56 Delegation by Controller

(1) The Controller may, by writing under his hand, delegate any of his powers and functions under this Act or under any order made thereunder (except this power of delegation) in relation to any matter or class of matters so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

(2) Any delegation by the Controller under this section shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Controller.

(3) Where, under this Act, the exercise of a power or function by the Controller is dependent upon the opinion, belief or state of mind of the Controller in relation to a matter and that power or function has been delegated by the Controller in pursuance of this section, that power or function may be exercised by the delegate upon the

opinion, belief or state of mind of the delegate in relation to that matter.

57 Books, accounts etc. to be kept and preserved

(1) A person who in the course of or for the purposes of or in connection with or incidental to a business that the person carries on:

(a) produces, manufactures, sells or supplies declared goods in relation to which a maximum price has been fixed and declared under section 20; or

(b) supplies or carries on a declared service in relation to which a maximum price has been fixed and declared under section 20,

must:

(c) keep proper books and accounts, and stock and costing records, in relation to the goods or service; and

(d) retain for 5 years after they are made or received or, if another period is prescribed, that other period:

(i) those books, accounts and records; and

(ii) all copies of invoices, and all vouchers, agreements, correspondence, written communications, stock sheets, and all other documents, that relate to the purchase, costs or sale by or on behalf of the person of the declared goods or the declared service.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) Without affecting the generality of subsection (1), the Controller may, by notice in writing, direct a person to whom that subsection applies:

(a) to keep in accordance with the direction; and

(b) to retain for 5 years after they are made or received or, if another period is prescribed, that other period,

books, accounts and records in relation to declared goods or services that are specified in the direction.

(3) A person must comply with a direction given under subsection (2).

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

58 Penalties

(4) Proceedings for an offence against this Act shall not be commenced except by, or with the written consent of, the Attorney-General or the Director of Public Prosecutions.

(5) For the prosecution of an offence against this Act, the offence shall be deemed to have been committed either at the place in which it was actually committed or at any place in which the person may be.

(6) In addition to any other punishment, a court may, if it thinks fit, order the forfeiture of any money or goods in respect of which an offence against this Act has been committed.

59 Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if the body corporate commits an offence by contravening a declared provision (a ***relevant offence***).

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) An offence against subsection (1) is a regulatory offence.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant:

(a) was not in a position to influence the conduct of the body corporate in relation to the contravention; or

(b) took reasonable steps to prevent the contravention; or

(c) did not know, and could not reasonably have been expected to know, that the contravention would happen.

(4) In deciding whether the defendant took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:

(a) any action the defendant took directed towards ensuring the following (to the extent the action is relevant to the contravention):

(i) the body corporate arranged regular professional assessments of the body corporate's compliance with the declared provision;

(ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);

(iii) the body corporate's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the declared provision;

(b) any action the defendant took when the defendant became aware that the contravention was, or could be, about to happen.

(5) Subsection (4) does not limit the matters the court may consider.

(6) This section does not affect the liability of the body corporate.

(7) This section applies whether or not the body corporate is prosecuted for, or found guilty of, the relevant offence.

(8) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

(9) In this section:

declared provision means:

(a) section 15(1), (2) or (3), 23(2), 25(2), 26(1), (3) or (5A), 27(1) or (4A), 28(1), 29, 30(1), 31(1) or 43(1); or

(b) a provision of the Regulations prescribed by regulation.

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

59A Regulatory offences

Subject to section 59, an offence against section 18(4)(a), 23(2), 29, 50(2), 52(2) or 57(3) is a regulatory offence.

60 Power to order recognizances

(1) When a person is found guilty of an offence against this Act, the court before which he is found guilty may, either in addition to or in lieu of any punishment provided for the offence, require him to enter into recognizances with or without sureties to comply with the provisions of this Act or the order, notice, direction or requirement in relation to which the offence was committed.

(2) If a person fails to comply with an order of the court requiring him to enter into recognizances, the court may order him to be imprisoned for any term not exceeding 6 months.

61 Evidentiary provisions

In any prosecution for an offence against this Act, a certificate under the hand of any person that a document annexed to the certificate is a true copy of a letter or notice sent by that person to the defendant shall be prima facie evidence of the matters certified to and that the original letter or notice of which the document purports to be a copy was received by the defendant on or about the time at which it would be delivered in the ordinary course of post if it had been sent on the date borne by the document, and that the signature on the certificate is the signature of the person by whom it purports to have been signed.

62 Proof of instruments

(1) Every document purporting to be an instrument made or issued by the Minister or any other authority or person in pursuance of any provision of this Act, or of an order made under this Act, and to be signed by or on behalf of the Minister, authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Minister, authority or person.

(2) Prima facie evidence of any such instrument may, in any legal proceedings, be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister or other authority or person having power to make or issue the instrument.

63 Evidence of orders, &c.

For the purposes of this Act:

(a) the mere production of the *Gazette* or the Government Gazette of a State purporting to contain any instrument shall be prima facie evidence that the instrument was duly made, given or issued in the terms set out in the *Gazette* or in the Government Gazette and that the instrument is in force; and

(b) the mere production of a document purporting to be an extract from the *Gazette* or the Government Gazette of a State, purporting to be printed or published by the Government Printer for the Territory or for the State, as the case may be, and purporting to contain any instrument shall be prima facie evidence that the instrument was duly made, given or issued to the effect of or in the terms set out in the extract, was published in the *Gazette* or the Government Gazette, as the case may be, and is in force.

64 Admissibility of evidence of answers given orally under compulsion

(1) A person must not refuse to answer a question that the person is required to answer under this Act on the ground that the answer might tend to incriminate him or her or make him or her liable to a penalty.

Maximum penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(2) An answer given by a person to a question that the person is required to answer under this Act is not admissible in evidence in any proceedings against the person other than proceedings in respect of the falsity of the answers or in respect of the refusal or failure to answer a question.

65 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing penalties, not exceeding one penalty unit, for any breach of the regulations.

66 Transitional matters for *Statute Law Amendment (Directors' Liability) Act 2015*

(1) Section 59, as inserted by the *Statute Law Amendment (Directors' Liability) Act 2015*, (the ***new section***) applies in relation to a relevant offence committed by a body corporate after the commencement of Part 2, Division 29 of that Act (the ***commencement***) only if:

(a) all the conduct constituting the relevant offence occurred after the commencement; and

(b) all the conduct of the executive officer constituting the offence against the new section occurred after the commencement.

. (2) Section 59, as in force before the commencement:

(a) continues to apply in relation to offences committed by a body corporate before the commencement; and

(b) applies in relation to relevant offences committed by a body corporate after the commencement to which, as a result of subsection (1), the new section does not apply.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Prices Regulation Ordinance 1949* (Act No. 17, 1949)**
Assent date 14 December 1949
Commenced 19 December 1949 (*Gaz* No. 17, 19 December 1949)

***Prices Regulation Ordinance 1954* (Act No. 10, 1954)**
Assent date 8 December 1954
Commenced 20 April 1955 (*Gaz* No. 10, 20 April 1955)

***Administrator's Council Ordinance 1959* (Act No. 22, 1959)**
Assent date 7 July 1959
Commenced 28 April 1960 (*Gaz* No. 22, 28 April 1960)

***Ordinances Revision Ordinance 1973* (Act No. 87, 1973)**
Assent date 11 December 1973
Commenced 11 December 1973 (s 12(2))

Amending Legislation

***Ordinances Revision Ordinance 1974* (Act No. 34, 1974)**
Assent date 26 August 1974
Commenced 11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974* (Act No. 69, 1974)**
Assent date 24 October 1974
Commenced 11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976* (Act No. 27, 1976)**
Assent date 28 June 1976
Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));
ss 3 and 4: 11 December 1973; s 5: 24 October 1974

Transfer of Powers (Self-Government) Ordinance 1978 **(Act No. 54, 1978)**

Assent date	1 July 1978
Commenced	1 July 1978 (s 8)

Statute Law Revision Act (No. 2) 1978 **(Act No. 19, 1979)**

Assent date	2 February 1979
Commenced	2 February 1979

Statute Law Revision Act (No. 2) 1979 **(Act No. 128, 1979)**

Assent date	15 October 1979
Commenced	15 October 1979

Criminal Law (Regulatory Offences) Act 1983 **(Act No. 68, 1983)**

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz* G46, 18 November 1983, p 11 and *Gaz* G8, 26 February 1986, p 5)

Law Officers Amendment Act (No. 2) 1986 **(Act No. 48, 1986)**

Assent date	10 December 1986
Commenced	19 December 1986 (*Gaz* S87, 17 December 1986)

Director of Public Prosecutions (Consequential Amendments) Act 1990 **(Act No. 29, 1990)**

Assent date	11 June 1990
Commenced	21 January 1991 (s 2, s 2 *Director of Public Prosecutions Act 1990* (Act No. 35, 1990) and *Gaz* G2, 16 January 1991, p 9)

Sentencing (Consequential Amendments) Act 1996 **(Act No. 17, 1996)**

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Prices Regulation Amendment Act 2002 **(Act No. 37, 2002)**

Assent date	13 September 2002
Commenced	1 October 2002 (*Gaz* S15, 30 September 2002)

Justice Legislation Amendment (Penalties) Act 2010 **(Act No. 12, 2010)**

Assent date	20 May 2010
Commenced	1 July 2010 (*Gaz* G24, 16 June 2010, p 2)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 **(Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

Statute Law Amendment (Directors' Liability) Act 2015 **(Act No. 26, 2015)**

Assent date	18 September 2015
Commenced	14 October 2015 (*Gaz* G41, 14 October 2015, p 3)

Local Court (Related Amendments) Act 2016 **(Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 8 *Prices Regulation Ordinance 1954* (Act No. 10, 1954)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 4, 8, 10, 11, 15, 16, 20, 21, 24, 26, 27, 28, 30, 31, 32, 33, 36, 37, 41, 42, 43, 44, 45, 47, 53, 57, 58, 66 and sch.

5 LIST OF AMENDMENTS

lt	sub No. 37, 2002, s 4
s 1	amd No. 37, 2002, s 5
s 2	sub No. 37, 2002, s 6
s 3	rep No. 37, 2002, s 6
s 4	amd No. 10, 1954, s 3; No. 22, 1959, s 6; No. 87, 1973, s 12; No. 54, 1978, s 4; No. 19, 1979, s 21; No. 37, 2002, s 7
s 5	amd No. 10, 1954, s 4; No. 54, 1978, s 4 rep No. 128, 1979, s 26
s 6	amd No. 10, 1954, s 7; No. 54, 1978, s 4 sub No. 37, 2002, s 8
s 7	amd No. 10, 1954, s 7; No. 54, 1978, s 4; No. 37, 2002, s 43
s 8	amd No. 10, 1954, s 7; No. 87, 1973, s 12; No. 54, 1978, s 4; No. 19, 1979, s 21; No. 29, 1990, s 7 sub No. 37, 2002, s 9 amd No. 12, 2010, s 3
s 9	amd No. 10, 1954, s 5; No. 54, 1978, s 4; No. 37, 2002, s 43
s 10	amd No. 10, 1954, s 7; No. 54, 1978, s 4
s 11	amd No. 37, 2002, s 10; No. 12, 2010, s 3
s 12	amd No. 37, 2002, s 11; No. 12, 2010, s 3; No. 40, 2010, s 99
s 13	rep No. 40, 2010, s 100
s 14	amd No. 37, 2002, s 12; No. 12, 2010, s 3; No. 40, 2010, s 101
s 15	amd No. 37, 2002, s 13; No. 12, 2010, s 3
s 16	amd No. 37, 2002, s 14
s 17	amd No. 37, 2002, s 15; No. 12, 2010, s 3
s 18	amd No. 37, 2002, s 16; No. 12, 2010, s 3
s 19	amd No. 10, 1954, s 7; No. 22, 1959, s 6; No. 54, 1978, s 4; No. 37, 2002, s 43
s 20	amd No. 37, 2002, s 17
ss 21 – 22	amd No. 37, 2002, s 43
s 23	amd No. 37, 2002, s 18; No. 12, 2010, s 3
s 24	amd No. 10, 1954, s 7; No. 22, 1959, s 6; No. 54, 1978, s 4; No. 37, 2002, s 43
s 25	amd No. 37, 2002, s 19; No. 12, 2010, s 3
s 26	amd No. 37, 2002, s 20; No. 12, 2010, s 3

s 27	amd No. 37, 2002, s 21; No. 12, 2010, s 3
s 28	amd No. 54, 1978, s 4; No. 37, 2002, s 22; No. 12, 2010, s 3
s 29	amd No. 37, 2002, s 23; No. 12, 2010, s 3
s 30	amd No. 37, 2002, s 24; No. 12, 2010, s 3
s 31	amd No. 37, 2002, s 25; No. 12, 2010, s 3
s 34	amd No. 37, 2002, s 26; No. 12, 2010, s 3
s 35	sub No. 37, 2002, s 27; No. 12, 2010, s 3
s 36	amd No. 54, 1978, s 4; No. 48, 1986, s 9; No. 29, 1990, s 7; No. 37, 2002, s 43
ss 37 – 38	amd No. 37, 2002, s 43
s 39	amd No. 37, 2002, s 28; No. 12, 2010, s 3
s 40	amd No. 37, 2002, s 29; No. 12, 2010, s 3
s 41	amd No. 37, 2002, s 30; No. 12, 2010, s 3
s 42	amd No. 37, 2002, s 31; No. 12, 2010, s 3
s 43	amd No. 37, 2002, s 32; No. 12, 2010, s 3
s 44	amd No. 10, 1954, s 7; No. 22, 1959, s 6; No. 54, 1978, s 4; No. 37, 2002, s 43
s 45	amd No. 10, 1954, s 7; No. 54, 1978, s 4; No. 37, 2002, s 43
s 46	amd No. 37, 2002, s 33; No. 12, 2010, s 3
s 47	amd No. 10, 1954, s 7; No. 22, 1959, s 6; No. 54, 1978, s 4
s 48	amd No. 37, 2002, s 34; No. 12, 2010, s 3
s 49	amd No. 54, 1978, s 4; No. 37, 2002, s 43
s 50	amd No. 37, 2002, s 35; No. 12, 2010, s 3
s 51	amd No. 37, 2002, s 36; No. 12, 2010, s 3
s 52	amd No. 37, 2002, s 37; No. 12, 2010, s 3
ss 53 – 56	amd No. 37, 2002, s 43
s 57	sub No. 37, 2002, s 38; No. 12, 2010, s 3
s 58	amd No. 10, 1954, s 7; No. 54, 1978, s 4; No. 29, 1990, s 7; No. 37, 2002, s 39; No. 8, 2016, s 45
s 59	amd No. 17, 1996, s 6; No. 37, 2002, s 43 sub No. 26, 2015, s 92
s 59A	ins No. 68, 1983, s 91 sub No. 37, 2002, s 40
s 60	amd No. 17, 1996, s 6; No. 37, 2002, s 43
s 61	amd No. 37, 2002, s 43
s 62	amd No. 10, 1954, s 6; No. 54, 1978, s 4; No. 37, 2002, s 43
s 63	amd No. 54, 1978, s 4; No. 37, 2002, s 43
s 64	sub No. 37, 2002, s 41 amd No. 12, 2010, s 3
s 65	amd No. 10, 1954, s 7; No. 87, 1973, s 6; No. 128, 1979, s 26; No. 37, 2002, s 43
s 66	ins No. 26, 2015, s 93
sch	rep No. 37, 2002, s 42