

PRICES REGULATION ORDINANCE

1949-1959.*

1939

An Ordinance to make provision for the Regulation of Prices for the Sale of certain Goods and Rates for the Supply of certain Services, and for other purposes.

1.—(1.) This Ordinance may be cited as the *Prices Regulation Ordinance 1949-1959*.*

Short title and commencement.

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

Short title amended: No. 17, 1938, s. 4.

2. The *Necessary Commodities Ordinance 1920* and the *Necessary Commodities Ordinance 1922* are repealed.

Repeal.

3. —(1.) All declarations, orders, directions, requirements, determinations, notices, authorities, approvals, requests and consents having, or purporting to have, force or effect, in the Territory, under the Commonwealth Regulations immediately prior to the commencement of this Ordinance shall, to the extent to which they relate to the Territory, be deemed to have been made, published or given by a competent authority under this Ordinance and be in force in the Territory, and any reference in any such declaration, order, direction, requirement, determination, notice, authority, approval, request or consent to any provision of, or authority under, the Commonwealth Regulations shall, so far as necessary, be construed as a reference to the corresponding provision of, or authority under, this Ordinance.

Saving.

(2.) All applications, proceedings and other like matters in relation to the Territory under the Commonwealth Regulations which were pending immediately prior to the commencement

* The *Prices Regulation Ordinance 1949-1959* comprises the *Prices Regulation Ordinance 1949* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date of Assent by Administrator.	Date of Commencement.
<i>Prices Regulation Ordinance 1949</i>	No. 17, 1949	14th December, 1949	19th December, 1949
<i>Prices Regulation Ordinance 1954</i>	No. 10, 1954	8th December, 1954	20th April, 1955
<i>Administrator's Council Ordinance 1959</i>	No. 22, 1959	7th July, 1959	28th April, 1960

† The date fixed was 19th December, 1949—see table above.

of this Ordinance may, with such adaptations as are necessary, be continued and dealt with under this Ordinance as if they had been commenced under this Ordinance.

Definitions.

Sub-section (1.)
amended by
No. 10, 1954,
s. 3; and
No. 22, 1959,
s. 6 and
First Schedule.

4.—(1.) In this Ordinance, 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 Ordinance;

“declared goods” means any goods declared by the Administrator in Council to be declared goods for the purposes of this Ordinance;

“declared service” means any service declared by the Administrator in Council to be a declared service for the purposes of this Ordinance;

“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, stumpage, 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 Commonwealth Regulations ” means the National Security (Prices) Regulations as in force or purporting to be in force in the Territory immediately prior to the commencement of this Ordinance under the *Defence (Transitional Provisions) Act 1946-1948*;

“ the Controller ” means the person for the time being occupying the office, or performing the duties of the office, of Controller of Prices;

“ the Minister ” means the Minister of State for Trade and Customs.

(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 Ordinance, 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 Ordinance, 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 sub-section (1.) of this section, the person from whom the rights or privileges have been acquired shall, for the purposes of this Ordinance, 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 Ordinance, fixed under or by virtue of this Ordinance 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 Ordinance, or after the date on which the maximum rate becomes applicable, whichever is the later.

5 This Ordinance shall be administered by the Administrator.

Administration.
Amended by
No. 10, 1954,
s. 4.

6.—(1.) The Administrator may appoint a Controller of Prices who shall have and may exercise such powers and functions as are conferred on him by this Ordinance.

Controller.
Sub-section (1.)
amended by
No. 10, 1954,
s. 7 and
Schedule.

Sub-section (2.)
omitted by
No. 10, 1954,
s. 7 and
Schedule.

Deputy
Controllers.

Sub-section (1.)
amended by
No. 10, 1954,
s. 7 and
Schedule.

Declaration
of secrecy.

* * * * *

7.—(1.) For the purposes of this Ordinance, the Administrator 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 Ordinance as he thinks fit.

8.—(1.) The Controller and each Deputy Controller and person exercising any power or performing any duty under this Ordinance shall, before entering on his duties under this Ordinance, sign a declaration of secrecy in accordance with the form in the Schedule to this Ordinance.

(2.) All declarations of secrecy under this Ordinance shall be lodged with, and retained by, the Controller.

(3.) A person shall not, except in the course of his duty under this Ordinance, directly or indirectly communicate or divulge any information relating to any matter which comes to his knowledge in consequence of his official position.

(4.) Nothing in this section shall be deemed to prohibit—

(a) the Controller, whenever he considers it necessary or desirable in the interests of justice so to do—

(i) from communicating to the Attorney-General any information which has, whether before or after the commencement of this Ordinance, come to his knowledge in consequence of his official position and which makes it appear that any person has committed, or is suspected of having committed or is about to commit, an offence against any law of the Territory relating to secret commissions;

(ii) from producing to the Attorney-General, for use in connexion with the prosecution of a person for any such offence, any documents, books or papers containing any such information;

(b) any person exercising any power or performing any duty under this Ordinance from answering any question relating to any such offence which he is required to answer when called as a witness in the prosecution of a person for that offence;

- (c) the Controller, a Deputy Controller or any person thereto authorized by the Controller from communicating to the Commissioner of Taxation or a Deputy Commissioner of Taxation any information for the purpose of the administration of any law of the Commonwealth relating to taxation; or
- (d) the Controller, a Deputy Controller or a person thereto authorized by the Controller from communicating to the Tariff Board constituted under the *Tariff Board Act* 1921-1947 any information relating to a matter in respect of which an inquiry is being held by the Tariff Board.

(5.) Where the Administrator notifies the Controller in writing that he is satisfied that the law of a State or Territory of the Commonwealth makes adequate provision for the preservation of the secrecy of information communicated to an authority or officer exercising powers and functions in relation to the control of prices in that State or Territory, nothing in this section shall be deemed to prohibit the Controller, a Deputy Controller or person thereto authorized by the Controller from communicating information to such an authority or officer.

Amended by
No. 10, 1954,
s. 7 and
Schedule.

9 A person who, at any time whilst this Ordinance is in operation, is the Minister, the Administrator, 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 Ordinance or as to any matter which comes to his knowledge in consequence of those duties—

The Minister
and others not
compellable
witnesses.

Amended by
No. 10, 1954,
s. 5.

- (a) in any proceedings against any person for contravening or failing to comply with—
 - (i) a provision of this Ordinance; or
 - (ii) a provision of an order made in pursuance of a provision of this Ordinance, or in force by virtue of such provision;
- (b) in any proceedings to which the Commonwealth or the Controller or any officer is a party in relation to any matter arising under this Ordinance; or
- (c) in any proceedings in which the validity of an order made in pursuance of a provision of this Ordinance or in force by virtue of such provision, is in issue.

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

Power to
summon
witnesses, &c.

- (a) summon witnesses;
- (b) take evidence on oath; and

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

Amended by
N. 10, 1954,
s. 7 and
Schedule.

(2.) Witnesses summoned in pursuance of sub-section (1.) of this section may be paid such fees and allowances as are fixed by the Administrator.

Failure of
witness to
appear.

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

Failure to
be sworn,
produce
documents, or
answer
questions.

12. 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 be sworn, or to make an affirmation, or to produce documents, books and papers, or to answer questions which he is lawfully required to answer.

Affirmation in
lieu of oath.

13.—(1.) Where any witness to be examined by the Controller, a Deputy Controller or an officer authorized by the Controller conscientiously refuses to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth, to all questions asked him.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

Power to
obtain
information.

14.—(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 Ordinance.

(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, and for that purpose may administer an oath.

(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.

(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.—(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—

Production of balance-sheets and other accounts and statements.

- (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 fifty-seven of this Ordinance) 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.

(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.

(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.

16.—(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.

Power to enter premises and inspect documents.

(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.

(3.) Any documents, books or papers impounded or retained at the commencement of this Ordinance in pursuance of sub-regulation (2.) of regulation 18 of the Commonwealth Regulations, shall be deemed to have been impounded or retained in pursuance of the last preceding sub-section.

Preventing
Controller,
Deputy
Controller
or authorized
officer from
entering
premises, &c.

17. 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.

Controller
or Deputy
Controller
may require
returns to be
furnished.

18.—(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 Ordinance, 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 Ordinance, 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.

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

Power to declare goods and services.

Sub-section (1.) amended by No. 10, 1954, s. 7 and Schedule; and No. 22, 1959, s. 6 and First Schedule.

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

Amended by No. 10, 1954, s. 7 and Schedule; and No. 22, 1959, s. 6 and First Schedule.

(3.) A declaration by the Administrator in Council 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.

Amended by No. 10, 1954, s. 7 and Schedule; and No. 22, 1959, s. 6 and First Schedule.

20.—(1.) The Controller may, with respect to any declared goods, from time to time, in his absolute discretion, by order—

Determination of maximum prices, rates, &c.

- (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.

* Section 19 was amended by section 7 and Schedule of the *Prices Regulation Ordinance* 1954. Section 8 of that Ordinance reads as follows:—

"8. Notwithstanding anything contained in this Ordinance, a declaration, which has been made by the Minister pursuant to section nineteen of the Principal Ordinance and which is in force immediately before the date when this Ordinance comes into operation, shall continue in force on and after that date as though made by the Administrator pursuant to the Principal Ordinance, as amended by this Ordinance."

(2.) In particular, but without limiting the generality of the last preceding sub-section, the Controller, in the exercise of his powers under that sub-section, 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 sub-section (1.) of this section 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 the last preceding sub-section, 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, in his absolute discretion, 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 the last preceding sub-section, the Controller, in the exercise of his powers under that sub-section, 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 sub-section (5.) of this section 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 the last preceding sub-section, 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 sub-section (1.), or paragraph (b) of sub-section (5.), of this section 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) upon receipt of the notice, forthwith acknowledge its receipt by telegram addressed to the Controller and communicate to the members, by letter or telegram, its contents and the date upon which he received it;

(ii) make a record of the time at which and the manner in which he communicates to each member the matters specified in the last preceding sub-paragraph; and

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

- (b) the contents of the notice, if communicated by letter, shall be presumed, unless the contrary is proved, to have been communicated to a member at the time at which the letter would be delivered to him in the ordinary course of post; and
- (c) the notice shall take effect, in respect of any member, upon communication to him of its contents or upon the expiration of seven 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 sub-section (1.) or by paragraph (a) of sub-section (5.) of this section 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 relating to the regulation of prices in the State.

(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.

Sale of goods
and supply of
service in one
transaction.

21.—(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 Ordinance (whether relating to the powers of the Controller or to any other matter) shall apply, *mutatis mutandis*, accordingly.

(2.) For the purposes of sections twenty-nine, thirty-one, thirty-three, thirty-four, forty, fifty, fifty-one, and fifty-seven of this Ordinance, a transaction in respect of which a maximum remuneration has been fixed under the last preceding sub-section 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 Ordinance for the supply of that service.

(3.) For the purposes of this Ordinance, and of any order or notice under this Ordinance, unless the contrary intention appears—

(a) the sale of any goods shall be deemed to include the supply, in connexion with the sale (whether or not for a separate remuneration) of any service customarily supplied by vendors in connexion 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 connexion 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 Ordinance, and of any order or notice under this Ordinance 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 Ordinance; and

(b) the transaction as a whole is not one which is, by reason of the last preceding sub-section, 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 Ordinance for the sale of the goods bears to the sum of that fixed price and the maximum rate fixed under this Ordinance 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.—(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 Ordinance, 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 Ordinance, have effect according to its tenor.

Transactions may be declared to be sales.

(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.—(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—

Power to prohibit certain transactions.

- (a) involves a departure from his normal course of trading;
- (b) would not be operated but for the provisions of this Ordinance 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 Ordinance 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.

(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.

(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, *mutatis mutandis*, accordingly.

Power of
Minister to
suspend order,
&c.

Sub-section (1.)
amended by
No. 10, 1954,
s. 7 and
Schedule; and
No. 22, 1959,
s. 6 and
First Schedule.

Amended by
No. 10, 1954,
s. 7 and
Schedule; and
No. 22, 1959,
s. 6 and
First Schedule.

Amended by
No. 10, 1954,
s. 7 and
Schedule.

24.—(1.) Notwithstanding anything contained in this Ordinance, the Administrator in Council may request the Controller to consider further any matter dealt with by an order made under section twenty of this Ordinance or any part of any such order, and the Controller shall, within twenty-eight days from the date of any request so made, report thereon to the Administrator.

(2.) Notwithstanding anything contained in this Ordinance, the Administrator in Council may, by notice in the *Gazette*, suspend the operation of an order made under section twenty of this Ordinance, or a part of any such order, for a period not exceeding twenty-eight 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 Administrator; and

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

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

25. 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.

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

26.—(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.

Inter-wholesale transactions.

(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, and the onus of ascertaining that cost shall be upon the wholesaler.

(4.) Notwithstanding anything contained in sub-section (1.) of this section, 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 purpose 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 and the seller shall thereupon furnish in writing that information to the buyer.

(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 the next succeeding sub-section 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 the next succeeding sub-section 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.

Inter-
r tail
transactions.

27.—(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.

(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 sub-section (1.) of this section, 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, and the retail seller shall thereupon furnish in writing that information to the retail buyer.

(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 the next succeeding sub-section 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 the next succeeding sub-section 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.—(1.) Subject to the next succeeding sub-section, 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,

Statements
that prices
have been
approved by the
Controller
prohibited
without his
approval.

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 or that any such goods or services have been subsidized by the Commonwealth.

(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.

Sale of goods
subject to
condition.

29. 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.

Offence to sell
at price higher
than maximum
price.

30.—(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.

(2.) In addition to any penalty that may be imposed for a breach of the last preceding sub-section, 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 sub-section (1.) of this section, and the price at which the goods were sold shall, for the purposes of the last preceding sub-section, 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 Ordinance, 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 Ordinance.

(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 twenty of this Ordinance.

31.—(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 Ordinance; 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.

(2.) In addition to any penalty that may be imposed for a breach of the last preceding sub-section, 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

Charging
excessive
rate for
services,
an offence.

relation thereto under this Ordinance, 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 Ordinance.

(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 twenty of this Ordinance.

Enforcement
of orders for
refunds.

32. An order made by a court under sub-section (2.) of section thirty, or sub-section (2.) of section thirty-one, of this Ordinance 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.

Sale of
declared
goods with
undeclared
goods, &c.

33.—(1.) It shall be a defence to a proceeding for an offence against section thirty or thirty-one of this Ordinance, 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.

Offering to pay
higher price
for declared
goods, &c.

34.—(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 connexion 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 Ordinance for the sale of those goods or the supply of that service.

(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. In relation to the sale of any declared goods the maximum price of which has been fixed by or under this Ordinance, a person shall not, without the consent of the Controller, deliver or offer to deliver, or knowingly accept, or offer to accept, delivery of—

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

- (a) a quantity of the goods less than the quantity agreed to be sold; or
- (b) goods inferior in quality to the goods agreed to be sold:

Provided that, where the agreement for the sale of the goods provides for delivery of the goods by instalments over a period, the goods may be so delivered if the whole of the goods are delivered within the time specified in the agreement.

36.—(1.) In any prosecution for a contravention of or failure to comply with any provision of this Ordinance or any order made in pursuance of or in force by virtue of this Ordinance, 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.

Averment of prosecution.

(2.) The last preceding sub-section 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 officer for the time being in charge of the office of the Commonwealth Crown Solicitor in the Territory 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 his 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 Ordinance or any order made in pursuance of or in force by virtue of this Ordinance, 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.

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

37. Where a maximum price or rate fixed under this Ordinance is expressed to be the lower or lowest of two or more prices or rates, then, for the purposes of any prosecution for a contravention of this Ordinance, 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.—(1.) In this Ordinance 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 Ordinance or the order, have the meanings respectively assigned to them hereunder—

Meaning of
"wholesale"
and "retail".

"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.—(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 Ordinance, shall not refuse or fail on—

Refusal, &c.,
to sell at
fixed prices.

(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.

(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.

Refusal to
perform
service at
declared rate.

40.—(1.) A person who supplies or carries on any declared service in respect of which a maximum rate has been fixed under this Ordinance 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.

(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.

Alteration of
size of
containers
or quantity
or ingredients
of declared
goods.

41.—(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 Ordinance;

- (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 Ordinance;
- (c) alter the formula or recipe ordinarily used by him at the date of the commencement of this Ordinance 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 Ordinance, 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.

(2.) For the purposes of this section, proof that at the date of the commencement of this Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 sub-section (1.) of this section 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 Ordinance 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.

Speculating in goods.

42.—(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.

(2.) In any prosecution for an offence against the last preceding sub-section 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.

Corners and restrictions on circulation of goods.

43.—(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 Ordinance.

(2.) In addition to any penalty that may be imposed for a contravention of sub-section (1.) of this section, 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.

Forfeiture of goods to Crown.

Amended by No. 10, 1954, s. 7 and Schedule; and No. 22, 1959, s. 6 and First Schedule.

44. If the Administrator in Council, 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 Ordinance, 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 thirty-nine of this Ordinance 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 forty-two of this Ordinance,

the Administrator in Council 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. When any goods have been forfeited under section forty-three or section forty-four of this Ordinance, any authorized officer or any member of the police force of the Commonwealth, or of the Territory, may—

Seizure and disposal of forfeited goods.

Amended by No. 10, 1954, s. 7 and Schedule.

- (a) seize any goods which he has reasonable cause to believe are forfeited under this Ordinance;
- (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 Administrator directs.

46.—(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 connexion with any such sale.

Sales by auction.

(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.

47. When any forfeited goods have been sold under paragraph (c) of section forty-five of this Ordinance, the Administrator in Council 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.

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

Amended by No. 10, 1954, s. 7 and Schedule; and No. 22, 1959, s. 6 and First Schedule.

48. 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.

Delivery of invoice or docket with goods.

Power to search for goods.

49. Any authorized officer or any member of the police force of the Commonwealth, or of the Territory, 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 Ordinance 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.

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

50. 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 Ordinance, 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.

Advertisements as to declared goods and services.

51.—(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 Ordinance) as are specified in the order.

(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.

(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.

Tickets, &c., to be attached to declared goods.

52 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 Ordinance, 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.

53 —(1.) An order under this Ordinance shall take effect upon the publication in the *Gazette* of— Orders.

- (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 the last preceding sub-section, an order under this Ordinance 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. A notice in writing for the purposes of this Ordinance may be given—

Manner in which notice in writing 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. Any order, declaration or notice authorized to be made or given under this Ordinance may be made or given so as to apply, according to its tenor, to—

Application of orders, &c.

- (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.

Delegation by
Controller.

56.—(1.) The Controller may, by writing under his hand, delegate any of his powers and functions under this Ordinance 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 Ordinance, 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.

Books,
accounts, &c.,
to be kept and
preserved.

57.—(1.) Every person who, in the course of, or for the purposes of, or in connexion with, or as incidental to, any business carried on by him—

- (a) produces, manufactures, sells or supplies any goods whatsoever; or
- (b) supplies or carries on any service whatsoever,

shall, for the purposes of this Ordinance, keep proper books and accounts, and stock and costing records, where applicable, and shall preserve those books and accounts and stock and costing records, including all copies of invoices and all vouchers, agreements, correspondence, cables, telegrams, stock sheets and other documents relating to his purchases of stock, costs and sales of any goods or relating to any service supplied or carried on by him, until their destruction is authorized by the Controller.

(2.) Without affecting the generality of the last preceding sub-section, the Controller may, by notice in writing, direct any person to whom that sub-section applies to keep such books, accounts and records as are specified in the notice.

(3.) A person to whom any such direction is given shall comply with the direction and shall preserve the books, accounts and records required to be kept by him in accordance with the direction until their destruction is authorized by the Controller.

58—(1.) A person who contravenes, or fails to comply with, any provision of this Ordinance, or of any order, notice, direction, requirement or other instrument made or given under, or in force by virtue of, this Ordinance or made or given under any order made under this Ordinance, shall be guilty of an offence against this Ordinance.

Offences,
penalties, &c.

(2.) An offence against this Ordinance may be prosecuted either summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.

(3.) The punishment for an offence against this Ordinance shall be—

(a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months; or

(b) if the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding two years.

(4.) An offence against this Ordinance shall not be prosecuted summarily without the written consent of the Administrator, or a person thereto authorized in writing by the Administrator, and an offence against this Ordinance shall not be prosecuted upon indictment except in the name of the Attorney-General.

Amended by
No. 10, 1954,
s. 7 and
Schedule.

(5.) For the purpose of the trial of a person summarily or upon indictment for an offence against this Ordinance, 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 Ordinance has been committed.

59. Where a person convicted of an offence against this Ordinance is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge, or that he used all due diligence to prevent the commission of the offence.

Offences by
corporations.

60.—(1.) When a person is convicted of an offence against this Ordinance, the court before which he is convicted may, either in addition to or in lieu of any punishment provided for the offence, require him to enter into recognizances with or

Power to
order
recognizances.

without sureties to comply with the provisions of this Ordinance 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 six months.

Evidentiary provisions.

61. In any prosecution for an offence against this Ordinance, 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.

Proof of instruments.
Sub-section (1.)
amended by
No. 10, 1954,
s. 6.

62.—(1.) Every document purporting to be an instrument made or issued by the Minister, Administrator or any other authority or person in pursuance of any provision of this Ordinance, or of an order made under this Ordinance, and to be signed by or on behalf of the Minister, Administrator, 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, Administrator, authority or person.

Amended by
No. 10, 1954,
s. 6.

(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, Administrator or other authority or person having power to make or issue the instrument.

Evidence of orders, &c.

63. For the purposes of this Ordinance—

- (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 Commonwealth 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. Where a person is obliged to answer questions orally by virtue of this Ordinance, he shall not refuse to answer any question on the ground that the answer might tend to incriminate him or make him liable to any penalty, but the answers given by him shall not be admissible in evidence in any proceedings against him other than proceedings in respect of the falsity of the answers or in respect of the refusal or failure to answer any question.

Admissibility of evidence of answers given orally under compulsion.

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

Regulations. Amended by No. 10, 1954, s. 7 and Schedule.

THE SCHEDULE.

Section 8.

THE NORTHERN TERRITORY OF AUSTRALIA.

Prices Regulation Ordinance 1949.

DECLARATION OF SECRECY.

I, _____ of _____ in the Northern Territory of Australia, do solemnly and sincerely declare that, except in the course of my duty under the above Ordinance, I will not directly or indirectly communicate or divulge any information relating to any matter which comes to my knowledge in consequence of my employment for the purposes of that Ordinance.

Declared at _____
this _____ day of _____, 19 _____.

Before me—

.....
Justice of the Peace.
Commissioner for taking Affidavits.
Commissioner for Declarations.