



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 40 of 1970

An Act to amend the Prices Act, 1948-1969.

[Assented to 3rd December, 1970]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Prices Act Amendment Act, 1970". Short titles.

(2) The Prices Act, 1948-1969, as amended by this Act, may be cited as the "Prices Act, 1948-1970".

(3) The Prices Act, 1948-1969, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended by inserting in subsection (1) immediately after the definition of "committee" the following definition:— Amendment of principal Act, s. 3— Interpretation.

"consumer" means a person who buys or takes on hire or lease, or is a potential buyer or hirer or lessee of, or borrows money for the purpose of purchasing, goods otherwise than for resale or letting on hire or leasing; and includes a person who uses otherwise than for the purpose of trading or carrying on a business, or is a potential user otherwise than for the purpose of trading or carrying on a business of, any service rendered for fee or reward:.

3. Section 4 of the principal Act is amended by striking out from subsection (2) the passage "1936-1947" wherever occurring therein and inserting in lieu thereof in each case the passage "1967, as amended". Amendment of principal Act, s. 4— Appointment of Prices Commissioner and staff.

Amendment of principal Act, s. 5—
Executive officers, authorized officers, and delegates.

4. Section 5 of the principal Act is amended by striking out from subsection (1) the passage “relating to prices of goods and rates for services”.

Amendment of principal Act, s. 6—
Remuneration and leave of absence.

5. Section 6 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “1936-1947” and inserting in lieu thereof the passage “1967, as amended”;

and

(b) by striking out from subsection (1) and from subsection (2) the passage “Public Service Commissioner” and inserting in lieu thereof in each case the passage “Public Service Board”.

Enactment of s. 18a of principal Act—

6. The following heading and sections are enacted and inserted in the principal Act immediately after section 18 thereof:—

Protection of the Consumer

Functions and powers of the Commissioner.

18a. (1) The functions of the Commissioner include—

- (a) the investigation of and conduct of research into aspects of and matters relating to or affecting the interests of consumers generally or any particular consumer or consumers;
- (b) the publication of reports, the dissemination of information and the taking of such steps as he thinks proper for informing the public on matters relating to or affecting the interests of consumers;
- (c) the giving of such advice to persons on the provisions of this Act or any other law relating to or affecting the interests of consumers as he thinks proper;
- (d) the receipt and investigation of any complaint from a consumer of excessive charges for goods or services or of unlawful or unfair trade or commercial practices or of infringement of a consumer's rights arising out of any transaction entered into by him as a consumer and the taking of such action by negotiation or otherwise as in his opinion is appropriate and proper in relation to any such complaint;
- (e) the making of reports to the Minister on matters referred to him by the Minister and matters of importance investigated by him, whether referred to him by the Minister or not.

(2) The Commissioner may, upon being satisfied that there is a cause of action and that it is in the public interest or proper so to do, on behalf of any consumer, institute legal proceedings

against any other person or defend any proceedings brought against the consumer, where the amount claimed or involved in either case does not exceed the sum of two thousand five hundred dollars, with a view to enforcing or protecting the rights of the consumer in relation to any infringement or suspected infringement by that other person of those rights or of any of the provisions of this Act or other law relating to the interests of consumers.

(3) The Commissioner shall not institute or defend any proceedings pursuant to subsection (2) of this section without first—

(a) obtaining the written consent of the consumer which once given shall be irrevocable except with the consent of the Commissioner;

and

(b) obtaining the written consent of the Minister which may be given subject to such conditions as the Minister thinks fit.

(4) In relation to any proceedings referred to in subsection (3) of this section, the following provisions shall apply—

(a) the Commissioner shall, on behalf of the consumer, have in all respects the same rights in and control over the proceedings, including the right to settle any action or part of any action, as the consumer would have had in the conduct of those proceedings;

(b) the Commissioner may, without consulting or seeking the consent of the consumer, conduct the proceedings in such manner as the Commissioner thinks appropriate and proper;

(c) any moneys (excluding costs) recovered by the Commissioner shall belong and be paid to the consumer without deduction and any amount awarded against the consumer shall be paid by and recoverable from the consumer, but in all cases the costs of the proceedings shall be borne by or paid to and retained by the Commissioner as the case may require;

and

(d) if any party to the proceedings files a counter-claim, or if the consumer on whose behalf the proceedings are being defended is entitled to file a counter-claim, and that counter-claim is not related to the cause of action and in no way relates to the interests of the consumer as a consumer, the court hearing the proceedings shall, on the application of the Commissioner, order that the counter-claim be heard

separately and that the consumer be a party to the counter-claim in his own right and may make such other orders or give such directions in that behalf as it thinks fit.

(5) Any money which the Commissioner becomes liable to pay by virtue of this section shall be paid out of the general revenue of the State and this Act, without any further appropriation, shall be sufficient authority for any such payment.

(6) The Commissioner may co-operate, collaborate or consult with officers of any department or instrumentality of the Crown in right of the State, or any other State or the Commonwealth or with any organization or body, wherever situated, which is concerned with the interests of consumers, or with any person who has a special knowledge of any aspect of consumer protection.

Commissioner to report on exercise of powers and functions under s. 18a.

18b. (1) As soon as practicable after the thirty-first day of December, 1971, the Commissioner shall make a report in writing to the Minister setting out what action he has taken during the twelve months preceding that day in relation to the exercise of his powers and functions under section 18a of this Act.

(2) The Minister shall, as soon as practicable after receiving the report from the Commissioner, cause a copy thereof to be laid before each House of Parliament.

Amendment of principal Act, s. 22f—
Minimum prices for liquor.

7. Section 22f of the principal Act is amended—

- (a) by inserting in subsection (1) after the figures “1967” the passage “, as amended”;
- and
- (b) by inserting in subsections (3), (5) and (10) after the passage “1967,” wherever occurring therein in each case the passage “as amended,”.

Amendment of principal Act, s. 27—
Inter-wholesale transactions.

8. Section 27 of the principal Act is amended by striking out from paragraph (b) of subsection (6) the passage “twenty-five pounds” and inserting in lieu thereof the passage “fifty dollars”.

Enactment of s. 49a of principal Act—

9. The following section is enacted and inserted in the principal Act immediately after section 49 thereof:—

Commissioner not liable for acts done in good faith.

49a. The Commissioner and any authorized officer shall not be personally liable, and the Crown shall not be liable, for any act done or default made or statement issued by the Commissioner or authorized officer in good faith in the course of the administration of this Act or the performance of his duties or functions thereunder.

10. Section 53 of the principal Act is amended by striking out the passage "nineteen hundred and seventy-one" and inserting in lieu thereof the figures "1972".

Amendment of
principal Act,
s. 53—
Duration
of Act.

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

J. W. HARRISON, Governor.