

Supplementary Order Paper

HOUSE OF REPRESENTATIVES

Thursday, the 25th Day of September 1958

TRADE PRACTICES BILL

Amendments proposed by HIS EXCELLENCY the GOVERNOR-GENERAL:

Clause 3: To insert, after subclause (3), the following subclause:

(3A) The Governor-General, on the recommendation of the Minister, may, from time to time, appoint an additional member or additional members of the Commission. Any member appointed under this subsection shall hold office during the pleasure of the Governor-General and any person so appointed shall, during the period of his appointment, be a member of the Price Tribunal:

Clause 11: To insert, after subclause (1), the following subclause.

(1A) Where any such agreement or arrangement relates to the sale or supply of goods or the performance of services in New Zealand and any party to the agreement carries on business in New Zealand, the agreement or arrangement shall be deemed to be an agreement within the meaning of subsection one of this section, notwithstanding that any other party to the agreement or arrangement does not carry on business in New Zealand.

To add the following subclause:

(4) This Part of this Act shall not apply to any agreement which is expressly authorised by any enactment.

Clause 13, subclause (3): To omit the word "Commissioner" from line 40, from line 42, and from line 5 (page 8), and substitute in each case the word "Commission".

Clause 13: To omit subclause (4), and substitute the following subclauses:

(4) Any party to an agreement required to be registered under this Part of this Act may apply to the Commissioner for the agreement or any part of the agreement to be excluded from the provisions of this Part relating to registration on the grounds that the agreement or the part thereof has no substantial economic significance, or may apply to the Commissioner for the inclusion of any provision of the agreement in the special section.

(4A) The Commissioner shall forward any such application to the Commission together with a report and his recommendations in respect of the application, and the Commission, if it is of the opinion that the grounds of the application are correct and that the registration of the agreement or part thereof is not necessary for the purposes of this Part, or that any provision of the agreement referred to in the application should be included in the special section, as the case may require, may direct the Commissioner accordingly, and the Commissioner shall take such steps as may be necessary to comply with any such direction.

Clause 20, subclause (2): To insert, after paragraph (b), the following paragraph:

- (bb) Any agreement or arrangement between wholesalers or retailers or contractors or any combination of persons engaged in the selling of goods or the performance of services, to sell goods, or perform services, or to tender for the sale of goods, or the performance of services, only at prices or on terms agreed upon between the parties to any such agreement or arrangement.

Clause 20: To add the following subclauses:

(4) Nothing in this section shall be deemed to authorise the making of an order in respect of a trade practice expressly authorised by any enactment.

(5) Where a trade practice relating to the sale or supply of goods, or the performance of services, in New Zealand is substantially within one or more of the categories referred to in subsection two of this section and any party to the practice does not carry on business in New Zealand, an order may be made under this section with respect to that part of the trade practice being carried on in New Zealand.

Clause 24: To add the following proviso:

Provided that any order made under section twenty of this Act may be appealed against in accordance with the provisions of Part IV_A of this Act.

To add the following Part and clauses:

PART IV_A

APPEALS FROM DECISIONS OF COMMISSION

24A. Trade Practices Appeal Authority—For the purposes of this Part of this Act the Governor-General may from time to time appoint a suitable person to be a Trade Practices Appeal Authority (in this Part referred to as the Appeal Authority).

24B. Qualifications for appointment—(1) The person appointed to be the Appeal Authority shall be a barrister or solicitor of not less than seven years' practice of the Supreme Court, whether or not he holds or has held any judicial office.

(2) Any person appointed to be the Appeal Authority may hold that office concurrently with any other office held by him.

24C. Seal—The Appeal Authority shall have a seal, which shall be judicially noticed in all Courts.

24D. Functions of Appeal Authority—The functions of the Appeal Authority shall be to sit as a judicial authority for the determination of appeals, in accordance with this Part of this Act, from orders made by the Commission.

24E. Evidence in proceedings before Appeal Authority—

(1) The Appeal Authority may receive in evidence any statement, document, information, or matter that may in his opinion assist him to deal effectually with the matter before him, whether or not the same would be otherwise admissible in a Court of law.

(2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Appeal Authority, and to all proceedings before the Appeal Authority, in the same manner as if the Appeal Authority were a Court within the meaning of that Act.

(3) The Appeal Authority shall within the scope of its jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

24F. Sittings of Appeal Authority—(1) Every sitting of the Appeal Authority shall be held in public and in such place as he deems convenient having regard to the nature of the matters to be decided:

Provided that the Appeal Authority may in any case if he considers it in the interest of the parties to the appeal and of all other persons concerned, order that the sitting or any part thereof shall be held in private.

(2) Any sitting of the Appeal Authority may be adjourned from time to time and from place to place.

(3) The Appeal Authority may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before him:

Provided that no such order shall be made prohibiting the publication of the names and descriptions of the parties to the appeal or of any decision of the Appeal Authority.

(4) Except as hereinbefore provided, the Appeal Authority shall determine his own procedure.

24G. Appeals to Appeal Authority—(1) There shall be a right of appeal from the whole or any part of any order made by the Commission under section twenty of this Act.

(2) Any person who by any order under section twenty of this Act is directed to discontinue any trade practice or not to repeat any trade practice or who by any such order is permitted to continue or repeat a trade practice subject to conditions prescribed by the order may appeal against the order or such part of the order as may be specified by the appellant.

(3) Where the order is directed to a class of persons, any person belonging to that class or any person representing that class may appeal against the order.

(4) No appeal shall lie against any order of the Commission made under the authority of section nine of this Act.

24H. Procedure on appeals—(1) Every appeal to the Appeal Authority shall be forwarded to the Commission within twenty-eight days after the date of the publication in the *Gazette* of the order appealed against.

(2) For the purposes of every such appeal the Commission shall furnish to the Appeal Authority a copy of any notes of evidence taken by the Commission in connection with the subject-matter of the appeal.

(3) As soon as conveniently may be after the receipt of any appeal the Appeal Authority shall fix a time and place for the hearing of the appeal and shall give not less than fourteen clear days' public notice thereof, and shall also give fourteen clear days' notice thereof to the appellant.

24I. Hearing and determination of appeal—(1) At the hearing of the appeal the Appeal Authority shall hear the evidence tendered and representations made by or on behalf of the appellant and other persons which he deems relevant to the subject-matter of the appeal.

(2) In his determination of any appeal the Appeal Authority may confirm, modify, or reverse the decision appealed against.

24J. Appeal Authority may refer appeals back to Commission—(1) Notwithstanding anything to the contrary in section twenty-four 1 of this Act, the Appeal Authority may in any case, instead of determining any appeal under that section, direct the Commission to reconsider the matter in respect of which the appeal was made.

(2) In any case where the Appeal Authority issues a direction under subsection one of this section the Commission shall again consider the matter as if no decision had previously been made.

(3) Whenever the Appeal Authority directs the Commission to reconsider a matter, the Appeal Authority shall advise the Commission of his reasons for so doing, and the Commission shall have regard to those reasons.

24K. Provisions when appeal being determined—Pending the determination of any appeal under this Part of this Act, the order appealed against shall be deemed to have no effect.

24L. Notice of decision on appeal—The determination of the Appeal Authority on any appeal shall be communicated by the Appeal Authority to the Commission and the Commission shall forthwith take all necessary steps to carry into effect the decision of the Appeal Authority.

24M. Proceedings before Appeal Authority not to be appealed against—Proceedings before the Appeal Authority shall not be held bad for want of form. No appeal shall lie from any determination of the Appeal Authority and, except on the grounds of lack of jurisdiction, no proceeding or order of the Appeal Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court.
