

Restrictions on classes of business that may be undertaken by trustee company.

7 Section twenty-nine of the Principal Act is amended—

(a) by adding at the end of subsection (2) the following paragraph:—

“(g) acquiring and holding as beneficial owner shares in a company the principal business of which is that of a registrar of shares or debentures or a secretary of companies;”
and

(b) by transposing the word “or”, at the end of paragraph (e) of that subsection to follow paragraph (f) thereof.

CONSUMERS PROTECTION.

No. 26 of 1970.

AN ACT to establish a Consumers Protection Council for the purpose of making investigations into matters affecting consumers and to make provision for matters incidental thereto.

[8 July 1970.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

1 This Act may be cited as the *Consumers Protection Act 1970*.

Interpretation.

2 In this Act, unless the contrary intention appears—

“advertising” includes any activity calculated or intended to promote or increase the sale or use of any goods or services;

“authorized officer” means a person appointed as an authorized officer under subsection (2) of section five or the holder of an office in respect of which a declaration has been made under that subsection;

“consumers” includes persons using, or taking advantage of, any service;

“Council” means the Consumers Protection Council established under this Act;

“documents” includes books, papers, and accounts, and any written records;

- “ officer of the Public Service ” includes a person temporarily employed in an office in the Public Service;
- “ Public Service ” has the same meaning as it has for the purposes of the *Public Service Act 1923*;
- “ secretary ” means the secretary of the Council;
- “ services ” means services provided by a person in the carrying on of an industrial, commercial, business, profit-making, or remunerative undertaking (including a professional practice), and includes the provision for reward of lodging or accommodation.

3—(1) There shall be established a council to be called the The Consumers Protection Council.

(2) The Council shall consist of eight persons appointed by the Governor; and a person appointed a member of the Council shall be so appointed for such term, not exceeding five years, as may be specified in his instrument of appointment.

(3) The chairman of the Council shall be such member thereof as the Governor may appoint for the purpose, and of the other members of the Council—

- (a) one shall be a person appointed as representing the interests of manufacturers;
- (b) one shall be a person appointed as representing the interests of persons engaged in the retail sale of goods or in the provision of services;
- (c) one shall be a person appointed as representing the interests of persons engaged in the advertising of goods or services; and
- (d) four shall be persons appointed as representing the interests of the consumers.

(4) Each of the members referred to in paragraph (a), paragraph (b), and paragraph (c) of subsection (3) of this section shall be appointed on the advice of the Minister given after consultation with such body or bodies as the Minister considers represent the interests of the classes of persons whose interests that member is appointed as representing.

(5) At least two of the members appointed under paragraph (d) of subsection (3) of this section shall be women.

(6) The Minister may pay to members of the Council such remuneration and allowances as the Governor may approve, but an officer of the Public Service shall not be paid any remuneration or allowances under this subsection, except allowances in respect of travelling in the carrying out of his functions as a member of the Council.

4—(1) The members of the Council are not as such subject to the *Public Service Act 1923*, but an officer of the Public Service may hold office as a member of the Council in conjunction with his office in the Public Service. Supplementary provisions as to the Council.

(2) Five members of the Council constitute a quorum at any meeting of the Council.

(3) The chairman of the Council, or, if he is absent or there is no chairman, such one of the other members present as they may choose, shall preside at meetings of the Council.

(4) The person presiding at a meeting of the Council has a deliberative vote only, and in the event of an equality of votes on any matter before a meeting of the Council, that matter stands adjourned to the next meeting of the Council.

(5) Subject to this Act the Council may regulate its own proceedings.

Officers of
the Council.

5—(1) The Governor may, in accordance with the *Public Service Act 1923*, appoint a secretary of the Council and such other officers as he considers necessary to assist the Council in the carrying out of its functions.

(2) On the recommendation of the Council, the Minister may appoint authorized officers for the purposes of this Act or may declare that the holders of such offices as are specified in the declaration shall be authorized officers for the purposes of this Act.

(3) No officer of the Public Service shall be appointed as an authorized officer under subsection (2) of this section, and no declaration shall be made under that subsection in respect of an office in the Public Service, unless the appointment or declaration, as the case may be, is made with the approval of the Public Service Commissioner.

(4) Authorized officers appointed under subsection (2) of this section who are not officers of the Public Service shall be paid by the Minister such remuneration as the Public Service Commissioner recommends and the other terms and conditions of their service shall be such as the Minister determines.

(5) Nothing in this section prevents the appointment of any barrister or solicitor to assist the Council at any hearing conducted in the course of an investigation carried out under this Act.

Functions of
the Council.

6—(1) The following are the functions of the Council, that is to say:—

- (a) The investigation of any matter affecting the interests of consumers that may be referred to the Council by the Minister;
- (b) The making of recommendations to the Minister with respect to any matter calculated to protect the interests of consumers;
- (c) The consultation with manufacturers, retailers, and advertisers on any matter affecting the interests of consumers; and
- (d) The furnishing to the Minister of reports on its activities and on matters affecting the interests of consumers that it considers should be brought to the notice of Parliament.

(2) Where any matter affecting the interests of consumers is referred to the Council by the Minister for investigation it shall, as soon as practicable, carry out the investigation and submit a report thereon to the Minister.

(3) Without prejudice to the generality of subsection (1) of this section, the prices charged for goods or services, practices used in connection with the advertising of goods and services, or in connection with the marketing, packaging, or labelling of goods, and matters relating to the fitness of goods for the purpose for which they are offered for sale, shall be regarded as matters affecting the interests of consumers.

(4) At least once in every year the Council shall submit to the Minister such a report as is referred to in paragraph (d) of subsection (1) of this section, but nothing in this section prevents the Council submitting any such reports to the Minister at such times as it thinks fit.

(5) The Council shall not in any report made to the Minister under this section disclose—

- (a) any information with respect to any process, plant, or equipment used in the business carried on by any particular person; or
- (b) any information with respect to the financial affairs of any particular person,

without the consent of that person.

(6) As soon as practicable after a report has been submitted to him by the Council under this section the Minister shall cause copies thereof to be laid before each House of Parliament.

7—(1) Where the Council has proceeded to investigate any matter under this Act, Division II of Part II of the *Evidence Act 1910* applies in relation to that investigation as if—

Powers in relation to investigations.

- (a) the Council were such a board of inquiry as is referred to in paragraph (b) of subsection (1) of section fourteen of that Act; and
- (b) the matter the subject of the investigation were the matter into which it was appointed to inquire by its instrument of appointment.

(2) Division II of Part IV of the *Evidence Act 1910* applies to proceedings on such an investigation as is referred to in subsection (1) of this section as it applies to the proceedings referred to in that Division.

(3) On the hearing of any proceedings on an investigation under this Act the Council, if it is satisfied that it is expedient so to do, may—

- (a) direct that the hearing, or any part thereof, shall take place in private and give directions as to the persons who may be present; or
- (b) give directions prohibiting or restricting the publication of any evidence given at the hearing (whether in public or in private) or of matters contained in any documents produced to the Council,

and, in any case where it is satisfied that the information to be contained in any evidence to be given at the hearing or contained in any document produced to the Council, is of a confidential nature, it shall give such of those directions as it considers are necessary to prevent the disclosure of that information to persons who would not otherwise have access thereto.

(4) References in subsection (3) of this section to information of a confidential nature shall be construed as references to such information as is referred to in subsection (5) of section six.

(5) A person who contravenes any directions given under subsection (3) of this section is guilty of an offence and liable to a penalty of five hundred dollars.

(6) A summons served under section fourteen of the *Evidence Act* 1910 in respect of such an investigation as is referred to in subsection (1) of this section shall state the matter the subject of the investigation.

Inquiries, etc.,
by authorized
officers.

8—(1) Where the Minister on the advice of the chairman of the Council is satisfied that for the purpose of facilitating the carrying out of such an investigation as is referred to in section seven it is necessary or desirable so to do the Minister may, by an authority in writing under his hand, authorize an authorized officer—

- (a) to make such inquiries as are specified in the authority;
- (b) to require the production of documents relating to any matter specified in the authority;
- (c) to enter upon and search any premises specified in the authority, and inspect any documents that he finds thereon; or
- (d) to impound or retain any documents produced to, or inspected by, him in pursuance of the authority, and to make copies of, or take extracts from, any such documents.

(2) An authority issued under this section shall specify the matter the subject of the investigation for the purposes of which the authority is issued, and, where the authority authorizes an officer to make inquiries or to require the production of any documents, it shall specify the persons of whom those inquiries may be made or who may be required to produce the documents, and those persons may be so specified as the persons employed in any specified business or on any specified premises or in any manner sufficient to identify them.

(3) The person who is entitled to any document impounded or retained pursuant to an authority granted under this section is, in lieu thereof, entitled, within a reasonable time, to receive from the secretary a copy thereof certified by him as correct, and such a copy shall be received in all courts as evidence and of equal validity to the original.

(4) Where in pursuance of an authority under this section an officer has obtained information on any matter relevant to the investigation for the purposes of which the authority was issued he shall cause a written report setting out that information to be submitted to the chairman of the Council, and, where, in pursuance of such an auth-

ority, he has impounded or retained any documents, or made copies of, or taken extracts from, any documents he shall cause those documents or extracts, or copies thereof, certified by him to be correct, to be laid before the chairman of the Council.

(5) A person may be required to produce a document under this section notwithstanding that it may criminate him, but, subject to the foregoing provisions of this subsection, no person shall be required under this section to give any information tending to criminate him.

(6) Where any information is obtained by an authorized officer under this section, evidence of that information, or the obtaining thereof, is not admissible against any person in any civil or criminal proceedings, except in proceedings against him for an offence under this Act.

(7) References in subsection (6) of this section to information shall be construed as including references to information with respect to the existence, custody, or contents of a document.

9—(1) Where, in pursuance of an authority issued under subsection (1) of section eight, an officer requires any person to furnish him with information or produce any document and that person, without reasonable excuse—

- (a) refuses or fails to furnish him with that information;
- (b) furnishes him with information that is false or misleading;
- or
- (c) refuses or fails to produce to him the document,

that person is guilty of an offence, and liable to a penalty of five hundred dollars.

(2) It is a defence in any proceedings for an offence under this section for the defendant to show that he had not been informed that he was required by law to furnish the information or produce the document, as the case may be.

(3) Nothing in this section prejudices or affects the operation of section thirty-four B of the *Police Offences Act 1935*.

10 Except in the course of his duties under this Act no person shall disclose any information obtained by him in the exercise of any powers conferred on him by, or by virtue of his office or employment under, or for the purposes of, this Act.

Penalty: Five hundred dollars.

11 A certificate under the hand of the chairman of the Council stating that the Council on such date as is specified in the certificate proceeded to investigate any matter so specified is sufficient evidence that the Council so proceeded.

12 The expenses incurred in the administration of this Act shall be provided out of money provided by Parliament for the purpose.

Failure to supply information, &c.

Maintenance of secrecy by members and officers.

Evidentiary provisions.

Expenses of Act.