

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1921.

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## A BILL

To amend the Profiteering Prevention Act,  
1920 ; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
the same, as follows :— .

**1.** This Act may be cited as the “Profiteering Short title.  
Prevention (Amendment) Act, 1921,” and shall be read  
with the Profiteering Prevention Act, 1920, hereinafter  
called the Principal Act.

**2.** The Principal Act is amended in section three—

Amendment  
of Principal  
Act, s. 3.

- (a) by the omission from the definition of “necessary commodity” of the word “man” wherever occurring, and the insertion in lieu thereof of the words “a human being”; and
- (b) by the omission from the definition of “necessary service” of the words “by ferry” and the insertion in lieu thereof of the words “by land or sea.”

**3.** The same Act is amended by the omission of section ten and the insertion in lieu thereof of the following new section :—

Amendment  
of *Ibid.* s. 10.

10. (1) (a) Without prejudice to the generality of his powers under this Act the President may investigate and inquire into the nature, extent, development, and operations of trusts, companies, firms, combinations, agreements, and arrangements having for their object or effect—

Power to  
investigate  
and inquire  
into the  
operations of  
trusts, &c.

- (i) the regulation of the prices, output, or supply of commodities manufactured or produced in, or imported into New South Wales, or the delimitation of markets in respect thereof; or
- (ii) the regulation of the charges for, or supply of, services in New South Wales,

in such manner or to such extent, in any such case, as to be detrimental to the interest of the public.

(b) The President shall for the purposes of this section utilise the powers of investigation or inquiry conferred upon him by this Act.

(c) This section shall operate and have full force and effect whether maximum prices, rates of profit, or charges have or have not been fixed under this Act.

(d) The President shall from time to time forward to the Governor a report embodying any information acquired by him under the provisions of this section, and any recommendations based thereon which he may think fit to make.

(2)

(2) (a) If the President has reason to believe—

(i) that any trust, company, firm, combination, agreement, or arrangement has such object or effect as aforesaid, and

(ii) that a proceeding by him in respect thereof will be to the interest of the public,

he may serve upon such member or members of such trust, company, firm, or combination, or upon such party or parties to such agreement or arrangement as he may think proper, a complaint stating his charges in that respect, and calling upon the respondent or respondents to show that such trust, company, firm, or combination or such agreement or arrangement has not such object or effect as aforesaid.

(b) Such complaint shall fix a hearing for a day not less than thirty days after the service of such complaint.

(c) Any person who has not been served as aforesaid may apply, and on good cause shown may be allowed by the President, to appear on such hearing.

(d) If upon such hearing the President is satisfied that such trust, company, firm, combination, agreement, or arrangement has such object or effect as aforesaid, he may grant an injunction against the doing or continuance by any member of such trust, company, firm, or combination, or any party to such agreement or arrangement, of any act or thing which has that object or effect.

(e) Any such member or party who does or continues any act or thing in disobedience of such injunction shall be guilty of an offence against this Act, and shall be liable to a penalty, which the President is hereby empowered to impose, not exceeding *five hundred* pounds for each day during which such disobedience continues. And if the offender is a corporation, the Supreme Court in its Equitable

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Equitable Jurisdiction may, at suit of the Attorney-General, dissolve and wind up such corporation upon such terms as such court may think just and reasonable.

(f) The President may make rules, not being inconsistent with this section, as to the forms to be used and the procedure to be followed under this section.

**4.** The same Act is amended by the omission of section fourteen and the insertion in lieu thereof of the following new section :—

Amendment of *Ibid.* s. 14.

14. (1) The President may, as regards any necessary commodity or any necessary service, in respect of which no maximum price or rate of profit or charge has been fixed under this Act, receive and investigate complaints made to him that a profit is being or has been, since the commencement of this Act, made or sought on the sale of such commodity, whether wholesale or retail, or on the supply of such service, which is, in the circumstances, unreasonable.

Power of President to investigate complaints of excess profits on commodities and services.

(2) Such complaint shall be made in writing within one month after the date of the transaction complained of, and shall be verified by the affidavit of the complainant.

(3) Upon receipt of any such complaint the President shall refer the same forthwith to an inspector, or other person appointed by the President, for inquiry and report, and may, upon the receipt of such report, order that the respondent be served with a summons requiring him to answer such complaint :

Provided that no such order shall be made after the expiration of one month from the date of the making of such complaint.

(4) If at the hearing of the summons the evidence adduced by or on behalf of the complainant as to the amount of the gross profit made or sought by the respondent is, in the opinion of the President, prima facie evidence that the respondent made or sought a net profit which is, in the circumstances, unreasonable

unreasonable, the President may in his discretion call upon the respondent to prove that he did not make or seek such net profit.

(5) In a proceeding under this section it shall not be a defence to prove that the profit, whether gross or net, made or sought by the respondent on the sale of other commodities or on the supply of other services or on his business as a whole is not unreasonable.

(6) The President, after hearing the parties—

- (a) may dismiss the complaint ; or
- (b) may, if satisfied that the net profit made or sought by the respondent was, in the circumstances, unreasonable, find that the respondent is guilty of an offence against this Act and impose a penalty accordingly.

(7) The President shall not be bound to fix under this section the price or charge which would yield a reasonable profit, whether gross or net.

(8) In the construction of this section “ sale ” includes offering to sell or exhibiting for sale, “ supply ” includes offering to supply, and “ seller ” and “ supplier ” have a corresponding signification.

(9) The President may make rules, not being inconsistent with this section, as to the forms to be used and the procedure to be followed under this section.

**5.** The same Act is amended by omitting from paragraph (c) of subsection three of section sixteen and from paragraph (a) of subsection two of section nineteen the words “ rates, taxes.” Amendment of Principal Act, s. 16 (3) (c) and s. 19 (2) (a).

**6.** The same Act is amended by the insertion in section twenty-four after subsection two of the following new subsection :— Amendment of *Ibid.*, s. 24.

(2A) An inspector producing the written authority of the President and a co-operative society shall be deemed to be retail traders within the meaning of this section.

**7.**

**7.** The same Act is amended by the insertion at the end of section twenty-nine of the following proviso :— Amendment of Principal Act, s. 29.

Provided that in any prosecution under this section it shall be a sufficient defence to show—

(a) that the defendant believed upon reasonable grounds that there was no misrepresentation; or

(b) that such misrepresentation was due to inadvertence only.

**8.** The same Act is amended by the omission from subsection one of section forty-nine of the words “is buying up or storing or is retaining,” and the insertion in lieu thereof of the words “has bought up, and is storing or retaining.” Amendment of *ibid.*, s. 49.

**9.** The same Act is amended by the omission from subsection one of section fifty-three of the word “fifty” and the insertion in lieu thereof of the words “forty-nine.” Amendment of *Ibid.*, s. 53.

**10.** The same Act is amended by the omission of section sixty-two and the insertion in lieu thereof of the following new section :— Amendment of *Ibid.*, s. 62.

62. Any proclamation issued or notice given or order made under this Act, and published in the Gazette, and the contents of such proclamation, notice, or order may be proved in any court by the production of— Proof of proclamation, notices, and orders, and of the contents thereof.

(a) a copy of the Gazette purporting to contain such proclamation, notice, or order; or

(b) a copy of such proclamation, notice, or order purporting to be printed by the Government Printer.

**11.** The same Act is amended by the omission from section sixty-seven of the words “the President shall” and the insertion in lieu thereof of the words “the President may.” Amendment of *Ibid.*, s. 67.

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