

1991—No. 456

**MONOPOLIES ACT 1923—REGULATION**

(Monopolies Regulation 1991)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Monopolies Act 1923, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS  
Attorney General.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Monopolies Regulation 1991.

**Definitions**

2. (1) In this Regulation:

“**Commission**” means the Industrial Commission of New South Wales;

“**Registrar**” means the Registrar of the Commission;

“**the Act**” means the Monopolies Act 1923.

- (2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 1.

**PART 2—COMPLAINTS**

**Making of complaint**

3. A complaint under section 8 of the Act is to be in Form 1, with such variations as circumstances may require, and must be lodged in duplicate at the office of the Registrar.

**Matter to be included in complaint**

4. A complaint may include any one or more of the matters into which the Commission is authorised by the Act to make an inquiry.

**Complaint against named persons**

5. (1) A complaint must set out the names of one or more persons against whom the complaint is made.

(2) It is not necessary to comply with subclause (1) if the Commission is satisfied that it is impracticable for the complainant to do so.

**Complaint against unnamed persons**

6. A complaint may include an allegation that the complaint is also made against other persons whose names are unknown to the complainant.

**Particulars of acts complained against**

7. A complaint must set out shortly the acts which it is alleged are being or have been done in furtherance of the monopoly, attempt to monopolise or combination which is the subject of the complaint.

**Verification of complaint**

8. A complaint must be verified by statutory declaration of the complainant.

**Corroboration of witness**

9. A complaint must be corroborated by statutory declaration of one or more persons, unless the Commission is satisfied that it is impracticable for the complainant to comply with this requirement.

**Statutory declarations in support of complaint**

10. (1) A statutory declaration in support of a complaint must state distinctly what facts or circumstances are within the declarant's own knowledge.

(2) If any fact or circumstance is stated on information derived from sources other than the declarant's own knowledge, the declaration must state distinctly those sources.

(3) A copy of the declaration must be lodged with the original.

**PART 3—INQUIRES****Notice of inquiry**

**11. (1)** If the Commission is satisfied that it should make an inquiry into any of the matters referred to in a complaint, the Commission must give such notice of the inquiry as it considers reasonable and practicable to:

- (a) the complainant; and
- (b) any persons against whom the complaint was made; and
- (c) such other persons, if any, as the Commission considers proper.

**(2)** Such a notice is to be in Form 2.

**Inspection and copies of certain documents**

**12. (1)** A person to whom a notice of an inquiry is given by the Commission may personally, or by the person's solicitor or agent authorised in writing, inspect at the office of the Registrar a statement setting out the substance of the complaint and any statutory declaration lodged in support of the complaint.

**(2)** Unless the Commission otherwise directs, the name of the complainant or any declarant must not be disclosed under subclause (1).

**(3)** A person authorised to inspect a statement may obtain copies of the statement on payment of such copying fee as may be determined by the Registrar.

**PART 4—REPEAL****Repeal of Monopolies Regulations 1924**

**13.** The Monopolies Regulations 1924 are repealed.

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SCHEDULE 1

Form 1

(C1.3)

COMPLAINT under section 8 of the Monopolies Act 1923

made by ..... (full name)

of ..... (address and occupation)

against .....

of .....

To the Industrial Commission of New South Wales

I, .....

complain to the Industrial Commission against .....

(full name) of ..... (address and occupation)

(or, if the complaint alleges that it is impracticable to set out the name of any person, "against persons whose names it is impracticable for me to set out" and, if appropriate, add "and other persons whose names are unknown to me")

that there is (or has been) on their part:

- (a) a monopoly (or an attempt to monopolise, or a combination to monopolise) the trade in ..... (set out commodity or service) with intent to control the supply or price of the commodity; or
- (b) a combination with intent to restrain trade in ..... (set out commodity or service); or
- (c) a combination for limiting or regulating the output or supply of ..... (set out commodity or service); or
- (d) a combination for raising or maintaining or regulating the price of ..... (set out commodity or service); or
- (e) an abuse, for the purpose of limiting or excluding competition in the trade in ..... (set out commodity or service).

The acts which are being (or have been) done in furtherance of the monopoly (or attempt to monopolise, or combination) which is the subject of this complaint are

..... (set out shortly the facts on which the complaint is made):

Dated this ..... day of ..... 19 ..

..... (Signature)

## Form 2

(Cl. 11)

NOTICE OF INQUIRY under section 8 of the Monopolies Act 1923

Notice is given that, a complaint having been made under the Monopolies Act 1923, an inquiry will be made by the Industrial Commission of New South Wales at Sydney, commencing at \_\_\_\_\_ o'clock of the \_\_\_\_\_ noon on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, into the following matters:  
 ..... (set out the matters)

A statement setting out the substance of the complaint and of the statutory declarations lodged in support of the complaint may be inspected by you, or by your solicitor or agent authorised in writing, at the office of the Registrar of the Commission, and copies of the statement may be obtained at that office on payment of a copying fee.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.  
 \_\_\_\_\_  
 Industrial Registrar

To ..... (name and address).

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, without any major changes, the provisions of the Monopolies Regulations 1924. The provisions of the new Regulation deal with matters of a machinery nature, such as:

- (a) the procedure for making complaints (against the monopolisation or attempted monopolisation of trade or against restraints of trade, etc.) under the Monopolies Act 1923; and
- (b) the prescription of matters relating to the making of inquiries by the Industrial Commission into complaints under that Act.

This Regulation is made in connection with the staged repeal of subordinate legislation under Part 3 of the Subordinate Legislation Act 1989.

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