



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

FAIR TRADING COMMISSION
ACT, No. 1 OF 1987

(Certified on 22nd January, 1987]

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF, A FAIR TRADING COMMISSION FOR THE CONTROL OF MONOPOLIES, MERGERS AND ANTICOMPETITIVE PRACTICES AND FOR THE FORMULATION AND IMPLEMENTATION OF A NATIONAL PRICE POLICY; FOR THE REPEAL OF THE NATIONAL PRICES, COMMISSION LAW, NO. 42 OF 1975 ; AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:--

1. This Act may be cited as the Fair Trading Commission Act, No. 1 of 1987 and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Minister may appoint by Order published in the *Gazette*.

**Short title
and date
of
operation**

PART I,

ESTABLISHMENT OF THE FAIR TRADING COMMISSION

2. There shall be established a Commission, which shall Fair Trading be called the Fair Trading Commission (hereinafter referred to as "the Commission") and which shall consist of the persons who are for the time being members of the Commission under subsection (1) of section 4.

**Fair
trading
Commis
sion**

3. The Commission shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

**The
Commis
sion to be a
body
corporate**

4. (1) The Commission shall consist of seven members appointed by the Minister from among persons who appear to the Minister to have had wide experience and "have shown capacity in the field of industry, law, trade, commerce or administration.

**Members
of the
Commis
sion**

(2) The Minister shall appoint one of the members of the Commission as the Chairman of the Commission.

(3) The provisions of the Schedule to this Act, shall have effect in relation to the terms of office of the members of the Commission and the remuneration payable to members of the Commission, meetings and the seal of the Commission.

PART II

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission

5. The functions of the Commission shall be

- (a) to investigate into any matter specified in section 11 and to make an appropriate order;
- (b) to examine any request made to it under section 13- or under section 19 and in appropriate cases, to fix the maximum factory, wholesale or retail prices above which any article referred to in such request shall not be sold, or to set out the price structure according to which such prices shall be fixed ;
- (c) to examine any matter specified in a reference made to it under section 23 and to tender advice in respect of such matter, in the form of a report to the relevant agency making such reference ;
- (d) to examine any matter specified in a reference made to it under section 24 and to tender advice in respect of such matter, in the form of a report to the Minister making such reference; and
- (e) to examine and report on any matter in terms of section 25.

Matters to which the Commission shall give special regard.

6. In the exercise of its functions under paragraphs (b), (c) , (d) and (e) of section 5 of this Act, the Commission shall have special regard to the following matters :

- (a) the protection of the interests of consumers of articles ;
- (b) the provision of necessary incentives to producers of articles ;
- (c) the necessity for ensuring reasonable rates of return on capital employed in the production of articles or the provision of services ;
- (d) the allocation of resources among different sectors of the economy of the country;
- (e) the efficient operation of public corporations engaged in the production of articles or the provision of services or in any activity connected with or incidental to the production of articles or the provision of services;

- (f) the control of inflation;
- (g) other objectives of economic and social policy of the Government ; and
- (h) and guidelines that may from time to time be given by the Minister.

7. The Commission may, for the proper exercise of- its' powers or the discharge of its functions require the manufacturers, importers and distributors of any article and any Government department or public corporation engaged in the provisions of any prescribed service-

Power to require maintenance of records and the furnishing of returns

- (a) to maintain records in respect of such matters as the Commission may consider. necessary and in such forms as may be determined by the Commission ; and
- (b) to furnish to the Commission returns in respect of such matters as the Commission may consider necessary at such intervals and in such forms as may be determined by the Commission.

8. (1) The Commission or any person authorized in that behalf by the Commission may, by notice in writing require any person to furnish within such period as shall be specified in the notice, any such information or to produce any such document as shall be specified in such notice, as ',-.he Commission may consider necessary for the proper exercise of its powers or the discharge of its functions, and it shall be the duty of any person who receives such notice to comply with such requirement within the time specified in such notice, notwithstanding the provisions of any written law which prohibit such person from disclosing such information or from producing such document

Power of Commission to call for information

Provided hower, that nothing in this subsection shall be recd and construed as enabling the Commission or any person authorized in that behalf by the Commission, by notice to require any person to furnish any information or to produce any document, if the disclosure of such information or the production of such document by such person is prohibited by any provision of the Exchange Control Act or any law providing for the imposition and recovery at any tax.

(2) Where a person is prohibited by the provisions of any written law from disclosing any information or from producing any document which he may be required to disclose or to produce under the provisions of subsection (1), such disclosure or production by him shall, notwithstanding

anything to the contrary in any such written law not he deemed to be a contravention of the provisions of such written law.

(3) No information contained in a return furnished under section 7, and no information furnished or the contents of a document produced, in compliance with the terms of a notice issued under this section, shall be published or communicated by the Commission to any other person except with the consent of the person furnishing such return or information, or producing such document, as the case may be or in the course of the discharge of the functions of the Commission.

Power of Commission to authorize any officer to enter and inspect premises.

9. The Commission may, where it considers it necessary for the purpose of carrying out an investigation under section 11, authorize in writing, any officer to enter and inspect at all reasonable hours of the day any Premises in which any business is carried on and to inspect and take copies of any records required to be kept by or under this Act or any other law, in respect of such business.

Power to hold inquiries and investigations

10. (1) The Commission may

(a) hold such inquiries where necessary or expedient in the discharge of its functions under this Act ; and

(b) Hold investigations under section 11.

(2) The Commission may give to all persons including representatives of associations or organizations of consumers interested in a matter which forms the subject of an inquiry or investigation as the case may be, held under this section, an opportunity of being heard and of producing such evidence, oral or documentary, as in the opinion of the Commission is relevant to such matter.

(3) For the purpose of any inquiry or investigation, as the case may be, held by the Commission under the provisions of subsection (1), the Commission shall have all the powers of a District Court

(a) to summon and compel the attendance of any witness ;

(b) to compel the production of documents.; and

(c) to administer any oath or affirmation to any witness.

(4) Where any person

a) without sufficient reason publishes any statement or does anything during the progress or after the conclusion of any inquiry or investigation, as the case may be, conducted by such Commission, which may bring the Commission or any member thereof into disrepute ; or

(b) interferes with the lawful process of the Commission ; or

(c) in the course of an inquiry or investigation, as the case may be, held under the provisions of subsection (1)

(i) fails without cause, which in the opinion of the Commission is reasonable, to appear before the Commission at the time and place specified in any summons issued by the Commission to such person ; or

(ii) refuses to be sworn, or having been duly sworn, refuses or fails without cause, which in the opinion of the Commission is reasonable, to answer any questions put to him relating to any matters being inquired into or investigated as the case may be, by the Commission ; or

(iii) refuses or fails without cause, which in the opinion of the Commission is reasonable, to produce and show to the Commission any document which is in his possession or power, and which in the opinion of the Commission is relevant to any matter being inquired into or investigated as the case may be, by the Commission,

such person shall be guilty of an offence of contempt against or in disrespect of the authority of the Commission.

(5) Where the Commission determines that a person had committed any offence of contempt against or in disrespect of its authority, the Commission may cause its Secretary General to transmit to the Court of Appeal a certificate setting out its determination and every such certificate shall be signed by the Chairman of the Commission.

(6) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of as provided in subsection (8), any document purporting to be a certificate signed and transmitted to the Court of Appeal under subsection (5) shall be evidence of the facts stated in the determination set out therein, and be conclusive evidence that such determination was made by the Commission.

(7) In any proceedings taken as provided in subsection j
(8) for the punishment of any alleged offence of contempt against or in disrespect of the authority of the Commission, no member of the Commission shall, except with his own consent, be summoned and examined as a witness.

(8) Every offence of contempt committed against or in disrespect of the authority of the Commission shall be punishable by the Court of Appeal.

PART III

INVESTIGATIONS BY THE COMMISSION

Commission to carry out investigations.

11. The Commission may, either of its own motion or on a complaint made to it by any person, or in the case of a proposed merger, on a request made to it by any person, carry out an investigation with respect to

- (a) the existence or possible existence of a monopoly situation ;
- (b) the creation or possible creation of a merger situation ;
- (c) the prevalence of any anti-competitive practice.

Monopoly situation

12. For the purpose of Paragraph (a) of section 11, a monopoly situation shall be taken to exist

(1) in relation to the supply of goods of any description in the following cases, that is to say, if

(a) the prescribed percentage of all the goods of that description which are supplied in Sri Lanka, are supplied by one and the same person, or are supplied to one and the same person, or

(b) the prescribed percentage of all the goods of that description which are supplied in Sri Lanka, are supplied by members of one, and the same group

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of interconnected bodies corporate, or are supplied to members of one and the same group of interconnected bodies corporate, or

(c) the prescribed percentage of all the goods **of that** description which are supplied in Sri Lanka, are supplied by members of one and the same group consisting of two or more persons or are supplied to members -of one and the same group consisting of two or more persons. The " two or more persons " referred to in this paragraph in relation to goods of any description, are any two or more persons (not being a group of interconnected bodies corporate) who, whether voluntarily or not, and whether by agreement or not, so conduct their respective affairs as in any way to prevent, restrict or distort competition in connection with the production or supply of goods of that description, whether or not they themselves are affected by the competition, and whether the competition is between persons interested as producers or suppliers or between persons interested as customers of producers or suppliers, or

(d) one or more agreements are in operation, the result or collective result of which is that goods of that description are not supplied in Sri Lanka ;

(2) in relation to the supply of services of any description in the following cases, that is to say, u

(a) the supply of services of that description in Sri Lanka is, to the extent of the prescribed percentage, supplied by one and the same person, or supplied to one and the same person, or

(b) the supply of services of that description in Sri Lanka is, to the extent of the prescribed percentage, supplied by members of one and the same group of interconnected bodies corporate, or supplied to members of one and the same group of interconnected bodies corporate, or

(c) the supply of services of that description in Sri Lanka is, to the extent of the prescribed percentage supplied by members of one and the same group consisting of two or more persons, or supplied to members of one and the same group consisting of two or more persons. The " two or more persons" referred to in this paragraph of this

section, in relation to services of any description, are any two or more persons (not being a group of interconnected bodies corporate) who, whether voluntarily or not and whether by agreement or not, so conduct their respective affairs as in any way to prevent, restrict or distort competition in connection with the supply of services of that description, whether or not they themselves are affected by the competition, and whether the competition is between persons interested as persons by whom, or persons to whom, services are supplied, or

(d) one or more agreements are in operation the result or collective result of which is that services of that description are not supplied in Sri Lanka;

(3) in relation to the export of goods of any description from Sri Lanka in the following cases, that is to say, if

(a) the prescribed percentage of all the goods of that description which are produced in Sri Lanka, are produced by one and the same person ; or

(b) the prescribed percentage of all the goods of that description which are produced in Sri Lanka, are produced by members of one and the same group of interconnected bodies corporate,

and in those cases a monopoly situation shall for the purposes of this section be taken to exist both in relation to the export of goods of that description from Sri Lanka generally and in relation to the export of goods of that description from Sri Lanka to each market taken separately ;

(4) in relation to the export of goods of any description from Sri Lanka generally, if

(a) one or more agreements are in operation which in any way prevent or restrict, or prevent, restrict or distort competition in relation to the export of goods of that description from Sri Lanka ; and

(b) that agreement referred to in paragraph (a) or as the case may be those agreements collectively, are operative with respect to the prescribed percentage of all the goods of that description which are produced in Sri Lanka;

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(5) in relation to the export of goods of any description from Sri Lanka to any particular market, if

(a) one or more agreements are in operation which in any way ,prevent or restrict, or prevent, restrict or distort competition in relation to the supply of goods of that description (whether from Sri Lanka or not) to that market-- and"

(b) that agreement is or as the case may be those agreements referred to in paragraph (a) collectively, are operative with respect to the prescribed percentage of all the goods of that description which are produced in Sri Lanka;

(6) for the purposes of this section ".prescribed percentage " in relation to

(a) the supply of goods of any description;

(b) the supply of services of any description; and

(c) the export of goods of any description.

means, such percentage as may be prescribed by regulations by the Minister, on the recommendation of the Commission, so however, thtat such percentage shall not be less than one-third of the supply of goods or services of any description or the export of goods of any description ;

(7) the Commission shall, in making its recommendation to the Minister under subsection (6), examine the share of the market held by any person or by members of one and the same group of interconnected bodies corporate and decide whether the market power derived as a result of hold ing of such share of the market can be used for tire purpose of

(a) eliminating or substantially damaging a competitor in the market ;

(b) preventing the entry of a competitor into the market; and

(c) deterring or preventing a person from engaging in.
competitive conduct in the market.

13.(1) For the purpose of paragraph (b) of section 11, a merger situation shall be taken to exist if a person, whether a body corporate or not, acquires or proposes to acquire, directly or indirectly, any shares in the capital or in the assets of a body corporate or of any other person, if

(a) as a result of the acquisition, or proposed acquisition such first mentioned person would be, or be likely to be in a position to control or dominate a market for goods or services ; or

(b) in a case where such first-mentioned person is in a position to control or dominate a market for goods or services

(i) any other person or body corporate or any other related person or body corporate is, or is likely to be a competitor of the first-mentioned person or a body corporate that is related to such first mentioned person ;and

(ii) the acquisition or proposed acquisition would or would be likely to substantially strengthen the power of the first mentioned person to control or dominate that market.

(2) For the purposes of this section such first mentioned person shall be deemed to be in a position to control or dominate a market

(a) if a body whether corporate or not that is related to such first-mentioned person is, or two or more such bodies each of which is related to such first-mentioned person together are in a position to control or dominate a market for goods or services, or "

(b) if such first-mentioned person and a body corporate that is, or two or more bodies corporate each of which is related to such first-mentioned person together are, in a position to control or dominate a market for goods or services.

(3) In this section

(a) a reference to " a market for goods or services " shall be construed as a reference to a substantial market for goods or services in Sri Lanka; and

(b) a reference to " control or dominate a market for goods or services " shall be construed as a reference to controlling or dominating such a market either as a supplier or as an acquirer of goods or services in that market.

14. For the purpose of paragraph (c) of section 11, as anti-competitive practice shall be deemed to prevail where a person in the course of business, pursues a course of conduct which of itself or when taken together with a course of conduct pursued by persons associated with him, has or is intended to have or is likely to have the effect of restricting, distorting or preventing competition in connection with the production, supply or acquisition of goods in Sri Lanka or the supply or securing of services in Sri Lanka.

Anti-competitive practice

15. (1) Upon the conclusion of an investigation carried out in respect of any or all of the matters specified in section 11, if the Commission is of the opinion-

Order to be made by commission upon the conclusion of an investigation

(a) that any monopoly or merger situation or anti- of competitive practice exists but such monopoly or merger situation or anti-competitive practice does not operate or is not likely to operate against the public interest, or in the case of a proposed merger that such proposed merger is not likely to operate against the public interest the Commission may by order authorize such monopoly or merger situation or anti-competitive practice or the proposed merger.

In determining for the purposes of this paragraph whether any monopoly or merger situation or anti-competitive practice or a proposed merger operates, or is likely to operate, against the public interest, the Commission shall take into account all matters which appear to such Commission to be relevant to the matter under investigation and shall have special regard to the desirability of

- (i) maintaining and promoting effective competition between persons supplying goods and services ;
- (ii) promoting the interests of consumers, purchasers and other users of goods and services in respect of the price and quality of such goods and services and the variety of goods and services supplied ;
- (iii) promoting through competition the reduction of costs, the development and use of new techniques and products and facilitating the entry of new competitors into existing markets ;

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(iv) maintaining and promoting balanced distribution of industrial activity and employment; and

(v) maintaining and promoting competitive activity in export markets;

(b) that the proposed merger is likely to operate against the public interest, the Commission shall refuse to authorize such proposed merger;

(c) that any monopoly or merger situation or anti

competitive practice exists and that it operates against the public interest, the Commission shall by order provide for—

(i) the division of any business by the sale of any part of the undertaking or assets or otherwise (for which purpose all the activities carried on by way of business by any one person or two or more interconnected bodies corporate, may be treated as a single business), or for the division of any group of interconnected bodies corporate, and for all such matters as may be necessary to effect or take account of the division, including

(a) the transfer or vesting of property, rights, liabilities or obligations ;

(b) the adjustment of contracts, whether by discharge or reduction of any liability or obligation or otherwise ;

(c) the creation, allotment, surrender or cancellation of any shares, stock or securities ;

(d) subject to and in accordance with the provisions of the Companies Act, No. 17 of 1982, the formation or winding up of a company or other association, corporate or unincorporated or the amendment of the memorandum and articles or other instruments regulating any company or association ;

(e) the extent to which, and the circumstances in which, provisions of the order affecting a company or association its share capital, constitution or other matters may be altered by the company or association, and the registration under any enactment of the order by companies or associations so affected;

(f) the continuation, with any necessary change of parties, of any legal proceedings;

(ii) the carrying on of any activity or the safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of such activities on such terms and with such powers as may be specified in the order or in any other manner;

(iii) the termination of any anti-competitive practice in such manner as may be specified in the order; and.

(iv) such other action as the Commission may consider necessary for the purpose of remedying or preventing the adverse effects of any monopoly or merger situation or anti-competitive practice.

(2) The reference in sub-paragraph (i) of paragraph (c) of subsection (1) to the division of a business as mentioned in that sub-paragraph, shall be construed as including a reference to the separation, by the sale of any part of any undertaking or assets concerned or other means, of enterprises which are under common control, otherwise than by reason of their being enterprises of interconnected bodies corporate.

16. The Commission may cause to be published any order made by the Commission under section 15 in such manner as it thinks fit.

Publication of order under section 15.

17. Any person aggrieved by an order made by the Commission under section 15 may within thirty days of the making of such order, appeal therefrom to the Court of Appeal.

Appeals

PART IV

REQUESTS, REFERENCES, AND DIRECTIONS TO THE COMMISSION

18. If it appears to the Controller of Prices that there is or there is likely to arise in Sri Lanka a shortage of any article, other than a prescribed article, or any unreasonable increase in the price of such first mentioned article, or that the price at which such article is being sold is excessive, he may request the Commission-

Controller of Prices may Request Commission to fix the prices, or to set out the price structure, of certain articles

- (a) to fix the maximum factory, wholesale or retail prices above which such article shall not be sold or set out the price structure according to which such maximum prices shall be fixed: or

(b) in the case of an article in respect of which there is an Order under section 20, for the time being in force, fixing the maximum prices above which such article shall not be sold, or setting out the price structure according to which such maximum prices shall be fixed, to vary the maximum prices fixed or, the price structure set out by such Order

Provided that the Controller of Prices may, where, he deems it necessary to do so in a case of extreme urgency, fix, by Order published in the *Gazette*, the maximum prices of such article and at the same time make such a request to the Commission; and such Order shall, until confirmed or varied by the Commission, be deemed to be an Order made by the Commission under section 20.

Relevant agency may request Commission to vary the prices fixed by Order for an article

19. A relevant agency may, in the case of an article in respect of which there is an Order under section 20 for the time being in force, fixing the maximum prices above which such article shall not be sold or setting out the price structure according to which such maximum prices shall be fixed, request the Commission to vary the prices fixed or the price structure set out by such Order.

Procedure and Powers of Commission on receipt of a request under section 18 or section 19

20. (1) Upon receipt of a request under section 18 or section 19, the Commission may cause a notice to be published in the *Gazette*, to the effect that it has received such request and inviting any persons interested in such request to submit to it their views and comments on such request.

(2) The views and comments referred to in subsection (1) shall be submitted in such manner and within such period as may be determined by the Commission.

(3) if, after examination of a request made under either of the aforementioned section and a consideration of the views and comments, if any, submitted in relation thereto under subsection (2) or by the Controller of Prices, the Commission is satisfied that such request is reasonable, it shall-

(a) in the case of a request made under section 18 (a), by Order published in the *Gazette*, fix the maximum factory, wholesale or retail prices above which the article referred to in such request, shall not be sold or set out the price structure according to which such maximum prices shall be fixed ; and

(b) in the case of a request made under section 18 (b) or section 19 vary the Order fixing the maximum factory, wholesale or retail prices above which the article referred to in such request, shall not be sold or setting out the price structure according to which such maximum prices shall be fixed.

(4) Every Order made under subsection (3) shall come into operation on the date on which such Order is published in the *Gazette*.

(5) An Order under subsection (3) may prescribe the conditions of the sale of the article specified in such Order, including conditions as to the time and place of the sale and the quantity and quality of the article to be sold.

(6) Where a request under section 18 or section 19 is in respect only of the retail or the wholesale or of the factory price, as the case may be, of an article, the Commission, when fixing by an Order under subsection (3) the maximum, retail or wholesale or factory price, as the case may be, above which such article shall not be sold may by the same Order also fix the maximum, wholesale and factory prices, or the maximum, retail and factory prices, or the maximum retail and wholesale prices, as the case may be, above which such article shall not be sold.

21. Where a request is made to the Commission under section 18 or section 19, it shall exercise the powers and discharge the duties conferred and imposed on it by section 20 in relation to such request within a period of two months from the date on which such request is received

Time limit within which powers and duties under section 20 are to be exercised and discharged

Provided that the Minister may, from time to time by Order published in the *Gazette*, extend the time within which the Commission shall exercise such powers or discharge such duties in respect of such request.

22. (1) The Minister may rescind or vary any Order made by the Commission under section 20.

Power of Minister to rescind or vary an Order under section 20

(2) Where an Order is rescinded or varied by the Minister under Subsection (1), notification of such rescission or variation shall be published in the *Gazette* and the Order made under section 20 shall be deemed to be rescinded or varied, as the case may be, with effect from the date of such publication but without prejudice to anything done or suffered thereunder or any right, obligation or liability acquired, accrued or incurred thereunder.

**Obligatory
reference in the
case of variation
of price or
charge of
prescribed
articles or
prescribed
services**

23. (1) A relevant agency proposing to vary the price of a prescribed article or the charge for any prescribed service shall inform the Commission of its proposal and shall refer to the Commission the examination of the question of such proposed variation of price or charge, as the case may be, and accordingly the Commission shall examine such question and report to the relevant agency making such reference within such period as may be specified in such reference

Provided that if the relevant agency is a person other than the Chairman of a public corporation or a Head of a Government department or the competent authority of a business undertaking vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971, any reference under this section shall only be made through a Minister and the Commission shall examine any question so referred and report to such Minister.

(2) A relevant agency shall not vary the price of a prescribed article or the charge for any prescribed service until after the Commission has examined and reported on the question or such variation of price or charge as the case may be

Provided that a relevant agency, if such agency is the Chairman of a public corporation, or a Head of a Government department or the competent authority of a business undertaking vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971, may, where it is deemed necessary to do so, in a case of extreme urgency, increase the price of such prescribed article or the charge of such prescribed service, pending a report from the Commission on a reference made by such agency under sub section (1).

**Advisory
reference.**

24. Any Minister may, either of his own motion or on representations made to him by any person or any body of persons, refer any question relating to the price of any article or the charge for any service to the Commission for examination and report, and accordingly, the Commission shall examine such question and send its report to the Minister making such reference, within such period as may be specified in such reference.

25. The Commission may, either of its own motion or on representations made to it by any person or body of persons, review any question relating to the price of any article or the charge for any service and report to the Minister article &c. within such period as the Commission may consider reasonable.

Commission to review question relating to prices of article &c

26. The Minister may cause to be published any report made to him under the provisions of this Act or an recommendations made in such report, in such manner as he this Act. -thinks fit.

Publication of a report made under this Act

PART V

STAFF OF TIDE COMMISSION

27. (1) The Commission may with the approval in writing of the Minister, appoint a Secretary-General to the Commission (in this Act, referred to as the " Secretary General ") .

Secretary General to the Commission

(2) The Secretary-General appointed under subsection (1) shall be the chief executive officer of the Commission, and shall at all times act under the direction of the Commission.

(3) The Secretary-General shall be paid such remuneration as may be determined by the Commission in consultation with the Minister.

(4) Whenever the Secretary-General is by reason of illness or absence from Sri Lanka or for any other cause unable to perform the duties of his office, the Commission may, with the approval in writing of the Minister, appoint some other person to act in his place, during such absence.

28. (1) The Commission may appoint such officers, servants and advisers as are necessary for the performance of the work of the Commission.

Appointment of officers servants and advisers to the Commission

(2) The officers, servants and advisers appointed under subsection (1) shall be remunerated at such rates as may be determined by the Commission in consultation with the Minister.

29. (1) At the request of the Commission, any officer in Appointment the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as determined by the Commission, with like consent, or with like consent be permanently appointed to such staff.

Appointment of public officers to the staff of the Commission

(2) Where any officer in the public service is temporarily appointed to the staff of the Commission, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Commission, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, - *Muta'tis Mutandis*, apply to and in relation to him.

(4) Where the Commission employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose, of discharging the obligations of such contract.

PART VI

FUND OF THE COMMISSION

Fund
of the
Commis-
sion

30. (1) The Commission shall have its own Fund.

(2) There shall be paid into the Fund of the Commission

(a) all such amounts as may be voted from time **to time** by the Parliament for the use of the Commission.;
and

(b) all such sums of money that may be received by the Commission in the exercise, discharge and performance of its powers, duties and functions.

(3) There shall be paid out of the Fund of the Commission the remuneration payable to the members of the Commission, and all such sums of money required to defray *the* expenses incurred by the Commission in the exercise, discharge and performance of its powers, functions and duties under this Act, and all such sums of money as are required to be paid by the Commission by or under this Act.

Financial
year and the
audit of
accounts

31. (1) The financial year of the Commission shall be the calendar year.

(2) The Commission shall cause proper books of accounts to be kept of the income and expenditure, assets; and liabilities and all other transactions of the Commission.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Commission.

PART VII

MISCELLANEOUS

32. Nothing in this Act shall apply to or in relation to any enterprise which has entered into any agreement with the Greater Colombo Economic Commission under section 17 of the Greater Colombo -Economic Commission Law, No. 4 of 1978

Provisions of this Act not to apply in relation to certain enterprises

33. Every complaint made under section 11 and every request made under section 18 or section 19 shall be in such form as may be determined for the purpose by the Commission.

Complaints under section 11 and requests under sections 18 and 19 to be in form determined by Commission

34. No civil or criminal proceedings shall be instituted-

(a) against the Commission for any act which in good faith is done or purported to be done by the Commission under this Act; or

(b) against any member, officer, servant or adviser of the Commission for any act which in good faith is done or purported to be done by him under this Act.

35. All members, officers, servants and advisers of the Commission shall be deemed to be public servants within the meaning of, and for the purposes of, the Penal Code.

Members, Officers and servants of the Commission deemed to be public servants

36. The Commission shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Commission deemed to be a Scheduled Institution within the meaning of the Bribery Act.

37. (1) Any person who-

Offenses and Penalties

(a) contravenes or fails to comply with any provision of penalties, this Act or any regulation made thereunder or any direction lawfully given or any requirement lawfully imposed under this Act ; or

(b) omits or refuses

(i) to furnish a return when required by the Commission to do so under section 7 ; or

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(ii) to furnish any information or to produce any document when required to do so by a notice sent under section 8 ; or

(c) knowingly makes any false statement in any return furnished by him under this Act, or knowingly furnishes any false information when required by the Commission to furnish any information ; or

(d) obstructs any officer acting in the exercise of his powers under section 9,

shall be guilty of an offence under this Act, and shall, on conviction, after trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

(2) (a) Any person who fails or refuses to comply with an order made under section 15 or acts in contravention of such order, shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a period not exceeding two years or to both such fine and imprisonment ;

(b) the court may in addition, order such persons to refrain from carrying on the business in respect of which an order has been made under section 15 other than an Order made under paragraph (b) of that section, for such period as may be determined by such court or until such person complies with the Order made under section 15.

(3) The Commission may publish or cause to be published in such manner as it shall deem fit the names and addresses of all persons convicted under this Act.

(4) Where any offence under this Act is committed by a body of persons, then

(a) if the body of persons is a body corporate, every director and officer of such body corporate ; and

(b) if the body of persons is a firm, every partner of that firm,

shall be deemed guilty of that offence

Provided that no such director, officer or partner shall be deemed guilty of that offence if he proves that such offence was committed without his knowledge or than he exercised all due diligence to prevent the commission of such offence.

(5) .No prosecution for any offence under this Act shall instituted except with the written sanction of the Attorney General.

38. (1.) the Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

Regulations

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters

(a) prescribing articles and services for the purposes of Act ;

(b) prescribing the manner in which meetings of the Commission shall be convened;

(c) prescribing the manner of conduct of meetings of the Commission;

(d) prescribing the persons by whom, and the manner in which, the expenses of witnesses summoned to attend inquiries and investigations held by the Commission, are to be paid.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such 1 ater date as may be specified in such regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette*, be brought before the Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.

39. (1) The National Prices Commission Law NO. 42 1975, is hereby revealed.

Repeal and savings

(2) Notwithstanding the repeal of the aforesaid T-aw

- (a) all moneys lying to the credit of the Fund of we Commission established under section 25 of the repealed Law, on the date prior to the appointed date shall be transferred to the Fund of the Commission established under this Act ;
- (b) all inquiries and examinations pending before the National Prices Commission on the date prior to the appointed date, shall be deemed to be inquiries and examinations pending before the Commission under the provisions of this Act, and shall accordingly be continued and concluded before such Commission under the provisions of this Act ;
- (c) all requests made under sections 17 and 18 and all questions referred for ex,- examination under sections 23, 24 and 25 of the repealed Law, to the Nationai Prices Commission, and pending before such Commission on the date prior to the appointed date. shall be deemed to be requests made and quest'ons referred to the Commission under this Act, and accordingly be inquired into and examined by the Commission under the provisions of this Act ;
- (d) all orders made and reports submitted by the National Prices Commission under the provisions of the repealed Law, shall be deemed to be orders made or reports submitted by the Commission under the provisions of this Act ;
- (e) all prosecutions instituted by or against the National Pr-ces Commission in any court or tribunal and pending on the date prior to the appointed date shall be deemed to be suits and prosecutions instituted by or against the Commission ;
- (f) all decrees and orders entered or made by any competent court in favour of or against the National Prices Commission, shall be deemed to have been entered or made in favour of or against the Commission and may be enforced accordingly ;
- (g) every regulation made by the Minister under the repealed Law, and in force on the appointed date and which is not inconsistent with the provisions of this Act, shall be deemed to be a regulation made under this Act and may accordingly be amended, added to, or rescinded by, regulations made under this Act;

(h) all officers, servants and advisers of the National Prices Commission, shall with effect from the appointed date be deemed to be officers, servants and advisers of the Commission, and shall hold office subject to terms and conditions not less favourable than the terms and conditions attached to their employment under the National Prices Commission;

(i) all debts, obligations, assets and liabilities incurred and all contracts and agreements executed or entered into and all matters and things engaged to be done by, with or for the National Prices Commission shall be deemed to have been incurred, executed, entered into and engaged to be done with or for the Commission

40. The Consumer Protection Act, No. 1 of 1979, is hereby amended as follows:-

(1) in section 20 of that Act, by the substitution in subsection (1) of that section, for the words "National of 1979. Prices Commission ", of the words " Fair Trading Commission " ;

(2) in section 21 of that Act, by the substitution in subsection (b) of that section, for the words " National Prices Commission ", of the words " Fair Trading Commission"; and

(3) by the repeal of section 23 of that Act.

41. In this Act, unless the context otherwise requires-

" article " means any article of food, drink, or merchandise ;

" Chairman " means the person appointed under this Act to be or to act as Chairman of the Commission ;

" Controller of Prices " means the Controller of Prices appointed under section 2 of the Control of Prices Act; and

"relevant agency" means

(a) in relation to any article, means the manufacturer, importer or distributor of such article or any other person responsible for fixing the price of such article; and

(b) in relation to a prescribed service means the Chairman of a public corporation or Head of a Government department or any other person providing such service.

**Amendment
of the
Consumer
Protection
Act, No 1 of
1979**

**Interpretat
ion**

Provisions relating to the members of the Commission

1. A person shall be disqualified from being appointed or continuing as a member of the Commission

(a) if he is, or becomes a Member of Parliament, any Development Council or any local authority; or

(b) if he is not, or ceases to be a citizen of Sri Lanka ; or

(c) if he is under any law. in force in Sri Lanka or in any other country, found or declared to be of unsound mind ; or

(d) if he is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other country.

2. Every member of the Commission shall, unless he vacates office earlier by death, resignation or removal, hold office for a term

of three years from the date of his appointment and unless he has been removed from office, be eligible for reappointment

Pro vided that a member appointed in place of a member who had vacated office, by death, resignation or removal, shall hold office for the unexpired term of office of the member whom he succeeds.

3. (1) The Minister may, by Order published in the Gazette, remove any member of the Commission, without assigning any reason therefor. A member in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the Gazette.

(2) The removal of any member under sub-paragraph (1) shall not be called in question in any court.

4. A member of the Commission may at any time resign from his office by letter to that effect addressed to the Minister and such resignat on shall take effect upon it being accepted by the Minister in writing.

5. In the event of the vacation of office, by death, resignation or removal, by any member of the Commission, the Minister may, having regard to the provisions of subsection (1) of section 4, appoint another person to succeed such member.

6. Where a member of the Commission, by reason of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may, having regard to the provisions of subsection (1) of section 4, appoint some other person to act in his place during such period.

7. The Member of the Commission may be paid such remuneration out of the Fund of the Commission, as the Minister may, in consultation with the Minister in charge of the subject of Finance determine.

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8. (1) The Chairman of the Commission shall, if present preside at every meeting of the Commission. In the absence of the Chairman from any such meeting, the members present shall elect one of the members present, to preside at such meeting.

(2) The quorum for any meeting of the Commission shall be three members.

(3) The Chairman, or in his absence the member presiding at any meeting of the Commission shall have, in addition to his own vote, a casting vote.

(4) Subject to the provisions of this paragraph and any regulation made under section 37 the Commission may regulate the procedure in regard to its meetings and the transaction of business at such meetings,

9. No act, decision or proceeding of the Commission shall be deemed invalid by reason only of the existence of any defect in the appointment of any member thereof.

10. (1) The seal of the Commission shall be in the custody of the Chairman.

(2) The application of the seal of the Commission shall be authenticated by the signature of the Chairman or some other member of the Commission authorized to authenticate the application of such seal.

11. A member of the Commission who is directly or indirectly interested in any matter which forms the subject matter of any proceeding of the Commission or of any decision proposed to be made by the Commission, shall disclose the nature of his interest at a meeting of the Commission and such member shall not take part in any proceeding or decision in respect of such matter.

12. (1) If the Chairman is, by reason of illness or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint another member of the Commission to act in his place.

(2) The Minister may, without assigning any reason therefor, terminate the appointment of the Chairman.

(3) The Chairman may at any time resign from the office of Chairman by letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

(4) Subject to the provisions of sub-paragraphs (2) and (3), the term of office of the Chairman shall be his period of membership of the Commission.