

Serial 69
Prices Regulation Amendment Bill 2002
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Prices Regulation Act*

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NORTHERN TERRITORY OF AUSTRALIA
PRICES REGULATION AMENDMENT ACT 2002

No. of 2002

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. of 2002

AN ACT

to amend the *Prices Regulation Act*

[Assented to 2002]

[Second reading 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Prices Regulation Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Prices Regulation Act* is in this Act referred to as the Principal Act.

4. Long title

The long title to the Principal Act is repealed and the following substituted:

"An Act to make provision for the regulation of prices for the sale of certain goods and supply of certain services so as to prevent price exploitation arising consequential on the occurrence of natural or man-made disasters and to modify the effects of monopolies and the failure of competition in the marketplace to benefit consumers, and for other purposes."

5. Short title and commencement

Section 1 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) This Act may be cited as the *Price Exploitation Prevention Act*"; and

- (b) by omitting from subsection (2) "Ordinance" and substituting "Act".

6. Repeal and substitution

Sections 2 and 3 of the Principal Act are repealed and the following substituted:

"2. Purposes

"The purposes of this Act are –

- (a) to prevent price exploitation arising consequential on the occurrence (whether or not in the Territory) of natural or man-made disasters that may prevent consumers benefiting from the operation of a competitive market; and
- (b) to prevent price exploitation that may occur because of the apparent failure of other laws to protect consumers from monopolies or to effectively ensure that consumers benefit from the operation of a competitive market within all or a part of the Territory."

7. Interpretation

Section 4 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" (all references) and substituting "Act";
- (b) by omitting from subsection (1) the definition of "the Commonwealth Regulations"; and
- (c) by omitting from subsections (2), (3) and (4) "Ordinance" (all references) and substituting "Act".

8. Repeal and substitution

Section 6 of the Principal Act is repealed and the following substituted:

"6. Controller

"(1) The Commissioner of Consumer Affairs within the meaning of the *Consumer Affairs and Fair Trading Act* is the Controller of Prices, except during a period in which a person holds office under subsection (2).

"(2) The Minister may, by notice in the *Gazette*, appoint a person to be the Controller of Prices for a period of not more than 3 years specified in the notice."

9. Repeal and substitution

Section 8 of the Principal Act is repealed and the following substituted:

"8. Secrecy

"(1) Subject to subsection (2), a person must not divulge or communicate information that the person has acquired by reason of being employed or engaged or otherwise concerned in, or in connection with, the administration or enforcement of this Act, except –

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or enforcement of this Act;
- (c) to the Commissioner of Police; or
- (d) for the purposes of legal proceedings.

Penalty: If the offender is a natural person – 400 penalty units.

If the offender is a body corporate – 2 000 penalty units.

"(2) Despite subsection (1), the Controller or a person authorised by the Controller may communicate information that the Controller considers should be communicated, for the purpose of the administration or enforcement of a law of the Commonwealth, the Territory, or a State or other Territory of the Commonwealth, to a Minister or official who has responsibility for the administration or enforcement of the law.

"(3) In this section –

'Minister or official' means a Minister, or an official, of the Crown in right of the Commonwealth or of the Territory or of any State or other Territory of the Commonwealth."

10. Failure of witness to appear

Section 11 of the Principal Act is amended by adding at the end the following:

"Penalty: 100 penalty units."

11. Failure to be sworn, produce documents or answer questions

Section 12 of the Principal Act is amended by adding at the end the following:

"Penalty: 100 penalty units."

12. Power to obtain information

Section 14 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" and substituting "Act";
- (b) by omitting from subsection (4)(a) "question; or" and substituting "question;";
- (c) by omitting from subsection (4)(b) "particular." and substituting "particular; or"; and
- (d) by adding at the end of subsection (4) the following:

"(c) refuse or fail to do so orally or in writing, and at the place, as required under this section.

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units."

13. Production of balance-sheets and other accounts and statements

Section 15 of the Principal Act is amended –

- (a) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.";

- (b) by adding at the end of subsection (2) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."; and

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- (c) by adding at the end of subsection (3) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

14. Power to enter premises and inspect documents

Section 16 of the Principal Act is amended by omitting subsection (3).

15. Preventing Controller etc. from entering premises etc.

Section 17 of the Principal Act is amended by adding at the end the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

16. Controller etc. may require returns to be provided

Section 18 of the Principal Act is amended –

- (a) by omitting from subsection (1)(d) "Ordinance" and substituting "Act";
(b) by omitting from subsection (3) "Ordinance" and substituting "Act"; and
(c) by adding at the end of subsection (4) the following:

"Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.
If the offender is a body corporate – 500 penalty units."

17. Determination of maximum prices, rates etc.

Section 20 of the Principal Act is amended –

- (a) by inserting before subsection (1) the following:

"(1A) The Controller may only make an order under subsection (1) or (5) if he or she is satisfied that the order is necessary to prevent price exploitation that may occur because of –

- (a) a natural or man-made disaster (whether or not in the Territory) that has occurred and that may prevent consumers benefiting from the operation of a competitive market; or
(b) the apparent failure of other laws to protect consumers from monopolies or to effectively ensure that consumers benefit from the

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operation of a competitive market within all or a part of the Territory.";

- (b) by omitting from subsections (1) and (5) ", in his absolute discretion,";
- (c) by omitting subsection (10)(a)(i) and substituting the following:
 - "(i) as soon as practicable after receiving the notice --
 - (A) notify in writing the Controller that the notice has been received; and
 - (B) notify in writing the members about the contents of the notice and the date on which it was received;"
- (d) by omitting subsection (10)(b) and substituting the following:
 - "(b) the contents of the notice are to be presumed, unless the contrary is proved, to have been notified to a member at the time at which the notice to the members under paragraph (a)(i)(B) would, having regard to the means by which the secretary or other proper officer gave the notice, ordinarily have been received; and";
- (e) by omitting from subsection (11) "Act of a State" and "the State" and substituting "Act of a State or another Territory of the Commonwealth" and "the State or Territory" respectively; and
- (f) by adding at the end the following:
 - "(15) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.
 - "(16) An order made under this section --
 - (a) is of no effect unless a date is specified in the order under subsection (15); and
 - (b) ceases to be of effect after the date specified under subsection (15), unless the order is earlier revoked."

18. Power to prohibit certain transactions

Section 23 of the Principal Act is amended --

- (a) by omitting from subsection (1) "Ordinance" (all references) and substituting "Act";
- (b) by adding at the end of subsection (2) the following:

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"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.";

(c) by inserting after subsection (3) the following:

"(3A) The Controller must specify in a notice under this section the date, not more than 12 months after the date on which the notice is given, after which the notice is to cease to be of effect.

"(3B) A notice under this section –

(a) is of no effect unless a date is specified in the notice under subsection (3A); and

(b) ceases to be of effect after the date specified under subsection (3A), unless the notice is earlier revoked."; and

(d) by omitting from subsection (4) "mutatis mutandis" and substituting "with the necessary changes".

19. Power to prohibit sale of goods or supply of services before maximum price or rate fixed

Section 25 of the Principal Act is amended –

(a) by omitting "The Controller" and substituting "(1) The Controller"; and

(b) by adding at the end the following:

"(2) A person must comply with an order made under subsection (1).

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(3) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

"(4) An order made under this section –

(a) is of no effect unless a date is specified in the order under subsection (3); and

(b) ceases to be of effect after the date specified under subsection (3), unless the order is earlier revoked.".

20. Inter-wholesale transaction

Section 26 of the Principal Act is amended –

- (a) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units.";

- (b) by omitting from subsection (3) all the words after "in excess of" and substitute "the cost to the retailer";

- (c) by adding at the end of subsection (3) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units.";

- (d) by inserting after subsection (3) the following:

"(3A) The onus of finding out the cost of goods to the retailer is on the wholesaler.";

- (e) by omitting from subsection (5) all the words after "provisions of this section"; and

- (f) by inserting after subsection (5) the following:

"(5A) A seller of goods who is requested under subsection (5) by a buyer of the goods to supply information to the seller must, as soon as reasonably practicable, supply the information in writing to the buyer.

Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units.".

21. Inter-retail transaction

Section 27 of the Principal Act is amended –

- (a) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units.";

- (b) by omitting from subsection (4) all the words after "comply with the provisions" and substituting "of this section"; and

- (c) by inserting after subsection (4) the following:

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"(4A) A retail seller of goods who is requested under subsection (4) by a buyer of the goods to supply information to the seller must, as soon as reasonably practicable, supply the information in writing to the buyer.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

22. Statements that prices approved by Controller prohibited without Controller's approval

Section 28 of the Principal Act is amended by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

23. Sale of goods subject to condition

Section 29 of the Principal Act is amended by adding at the end the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

24. Offence to sell at price higher than maximum price

Section 30 of the Principal Act is amended –

(a) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."; and

(b) by omitting from subsection (4) "Ordinance" (all references) and substituting "Act".

25. Offence to charge excessive rate for service

Section 31 of the Principal Act is amended –

(a) by omitting from subsection (1)(a) "Ordinance" and substituting "Act";

(b) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."; and

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- (c) by omitting from subsection (3) "Ordinance" (all references) and substituting "Act".

26. Offering to pay higher price for declared goods etc.

Section 34 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" and substituting "Act"; and
(b) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

27. Repeal and substitution

Section 35 of the Principal Act is repealed and the following substituted:

"35. Delivery of goods less in quantity or inferior in quality to those sold

"(1) A person must not, without the consent of the Controller, deliver or offer to deliver or knowingly accept, or offer to accept, delivery of –

- (a) a quantity of declared goods, the maximum price of which has been fixed under this Act, that is less than the quantity agreed to be sold; or
(b) goods inferior in quality to declared goods, the maximum price of which has been fixed under this Act, that were agreed to be sold.

Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units.

"(2) Subsection (1) does not apply to the delivery of goods if –

- (a) the agreement for the sale of the goods provides for delivery of the goods by instalments over a period; and
(b) all of the goods are delivered within the time specified in the agreement."

28. Refusal etc. to sell at fixed price

Section 39 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" and substituting "Act"; and
(b) by adding at the end of subsection (1) the following:

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"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

29. Refusal to perform service at declared rate

Section 40 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" and substituting "Act"; and
- (b) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

30. Alteration of size of containers, quantity or ingredients of declared goods

Section 41 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" (all references) and substituting "Act";
- (b) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."; and

- (c) by omitting from subsections (2) and (3) "Ordinance" (all references) and substituting "Act".

31. Speculating in goods

Section 42 of the Principal Act is amended by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.
If the offender is a body corporate – 500 penalty units."

32. Corners and restrictions on circulation of goods

Section 43 of the Principal Act is amended –

- (a) by omitting from subsection (1) "Ordinance" and substituting "Act"; and
- (b) by adding at the end of subsection (1) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

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If the offender is a body corporate – 500 penalty units."

33. Sales by auction

Section 46 of the Principal Act is amended –

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

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."; and

- (b) by adding at the end the following:

"(3) The Controller must specify in an order or notice under this section the date, not more than 12 months after the date on which the order is made or the notice is given, after which the order or notice is to cease to be of effect.

"(4) An order or notice under this section –

- (a) is of no effect unless a date is specified in the order or notice under subsection (3); and

- (b) ceases to be of effect after the date specified under subsection (3), unless the order or notice is earlier revoked."

34. Delivery of invoice or docket with goods

Section 48 of the Principal Act is amended –

- (a) by omitting "The Controller" and substituting "(1) The Controller"; and

- (b) by adding at the end the following:

"(2) A person must comply with an order made under subsection (1).

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

35. Particulars with respect to declared goods and declared services to be exhibited

Section 50 of the Principal Act is amended –

- (a) by omitting "The Controller" and substituting "(1) The Controller";

- (b) by omitting "Ordinance" and substituting "Act"; and

- (c) by adding at the end the following:

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"(2) A person must comply with an order made under subsection (1).

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(3) The Controller must specify in an order made under this section the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

"(4) An order made under this section –

(a) is of no effect unless a date is specified in the order under subsection (3); and

(b) ceases to be of effect after the date specified under subsection (3), unless the order is earlier revoked."

36. Advertisements as to declared goods and services

Section 51 of the Principal Act is amended –

(a) by omitting from subsection (1) "Ordinance" and substituting "Act";

(b) by inserting after subsection (1) the following:

"(1A) The Controller must, in an order made under this section, specify the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

"(1B) An order made under this section –

(a) is of no effect unless a date is specified in the order under subsection (1A); and

(b) ceases to be of effect after the date specified under subsection (1A), unless the order is earlier revoked."; and

(c) by adding at the end of subsection (2) the following:

"Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

37. Tickets etc. to be attached to declared goods

Section 52 of the Principal Act is amended –

(a) by omitting "The Controller" and substituting "(1) The Controller";

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- (b) by omitting "Ordinance" and substituting "Act"; and
- (c) by adding at the end the following:

"(2) A person must comply with an order made under subsection (1).

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(3) The Controller must, in an order made under this section, specify the date, not more than 12 months after the date on which the order is made, after which the order is to cease to be of effect.

"(4) An order made under this section –

- (a) is of no effect unless a date is specified in the order under subsection (3); and
- (b) ceases to be of effect –
 - (i) after the date specified under subsection (3);
 - (ii) on the date on which the order is revoked; or
 - (iii) after the expiry of the order under section 20 fixing and declaring the maximum price of the goods or service to which the order made under this section relates,

whichever is earlier."

38. Repeal and substitution

Section 57 of the Principal Act is repealed and the following substituted:

"57. Books, accounts etc. to be kept and preserved

"(1) A person who in the course of or for the purposes of or in connection with or incidental to a business that the person carries on –

- (a) produces, manufactures, sells or supplies declared goods in relation to which a maximum price has been fixed and declared under section 20; or
- (b) supplies or carries on a declared service in relation to which a maximum price has been fixed and declared under section 20,

must –

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- (c) keep proper books and accounts, and stock and costing records, in relation to the goods or service; and
- (d) retain for 5 years after they are made or received or, if another period is prescribed, that other period –
 - (i) those books, accounts and records; and
 - (ii) all copies of invoices, and all vouchers, agreements, correspondence, written communications, stock sheets, and all other documents, that relate to the purchase, costs or sale by or on behalf of the person of the declared goods or the declared service.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(2) Without affecting the generality of subsection (1), the Controller may, by notice in writing, direct a person to whom that subsection applies –

- (a) to keep in accordance with the direction; and
- (b) to retain for 5 years after they are made or received or, if another period is prescribed, that other period,

books, accounts and records in relation to declared goods or services that are specified in the direction.

"(3) A person must comply with a direction given under subsection (2).

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units."

39. Penalties

Section 58 of the Principal Act is amended –

- (a) by omitting subsection (1);
- (b) by omitting from subsection (2) "Ordinance" and substituting "Act";
- (c) by omitting subsection (3); and
- (d) by omitting from subsections (5) and (6) "Ordinance" (all references) and substituting "Act".

40. Repeal and substitution

Section 59A of the Principal Act is repealed and the following substituted:

"59A. Regulatory offences

"Subject to section 59, an offence against section 18(4)(a), 23(2), 29, 50(2), 52(2) or 57(3) is a regulatory offence."

41. Repeal and substitution

Section 64 of the Principal Act is repealed and the following substituted:

"64. Admissibility of evidence of answers given orally under compulsion

"(1) A person must not refuse to answer a question that the person is required to answer under this Act on the ground that the answer might tend to incriminate him or her or make him or her liable to a penalty.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

"(2) An answer given by a person to a question that the person is required to answer under this Act is not admissible in evidence in any proceedings against the person other than proceedings in respect of the falsity of the answers or in respect of the refusal or failure to answer a question."

42. Repeal

The Schedule to the Principal Act is repealed.

43. Further amendments

The Principal Act is amended as set out in the Schedule.

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SCHEDULE

Section 43

Provision	Amendment	
	omit	substitute
Sections 7(1) and (2), 9 and 19(1) and (2)	Ordinance (all references)	Act
Section 21(1)	Ordinance mutatis mutandis	Act with the necessary changes
Sections 21(2), (3) and (4), 22(1), 24(1) and (2), 36(1) and (8), 37, 38(1), 44(a)	Ordinance (all references)	Act
Section 45	police force	Police Force
Sections 45(a), 49, 53(1) and (2), 54, 55, 56(1) and (3), 59, 60(1), 61, 62(1) and 63	Ordinance (all references)	Act
Section 65	Ordinance (all references) 100 dollars	Act one penalty unit

