

(4) Every agreement entered into with the Authority under subsection (1), shall be registered with the Authority and shall contain a schedule giving the name and description of each authorised distributor of such manufacturer or trader or members of such association, as the case may be.

(5) Every agreement entered into with the Authority under subsection (1), shall come into force from the date of such agreement, unless such agreement provides that the agreement shall come into force on any subsequent date.

(6) Where the Authority thinks fit, it may cause any agreement made under this section to be published in the Gazette. Where an agreement is published in the Gazette, the production of a copy of the Gazette in which such agreement is published shall, until the contrary is proved, be proof of the contents of such agreement.

(7) For the purpose of any prosecution under this section, a certificate given by the Authority that any person is an authorised distributor of any manufacturer or trader or is a member of any association of traders or manufacturers shall be admissible and be *prima facie* proof in a court of law that such person is an authorised distributor of such manufacturer or trader or a member of such association.

15. (1) No trader who has in his possession or custody or under his control any goods for purpose of trade within Sri Lanka, shall refuse to sell such goods.

Refusal to sell goods to be an offence.

(2) In any prosecution of any trader for the contravention of the provisions of subsection (1), it shall be a sufficient defence for the accused to prove that —

- (a) on the occasion in question, he supplied a reasonable quantity of the goods, or had not a sufficient quantity in his possession to supply the quantity;
- (b) he carried on business in the goods as a wholesale trader only, and that the sale of the quantity demanded by the buyer would have been contrary to the normal practice of a wholesale business ; or

- (c) the sale of the goods on that occasion in question would have been contrary to any provisions of any written law or any general or special direction issued to him by the Authority under section 10.

Denial of possession of any goods for purposes of trade or the sale of such goods subject to any condition to be an offence.

16. No trader who has in his possession or custody or under his control any goods for purpose of trade within Sri Lanka, shall —

- (a) deny the possession of such goods ; or
- (b) offer such goods for sale subject to a condition requiring the purchase of any other goods or the making of any payment in respect of any service or to any other condition, other than the condition that the buyer shall pay the price of such goods forthwith.

Hoarding of goods by any trader or person to be an offence.

17. (1) No trader shall conceal in his place of business or in any other place, any goods in such quantity as is in excess of the normal trading requirements of such trader.

(2) No trader shall have in his possession or custody or under his control in his place of business or in any other place, any goods in such quantity in excess of —

- (a) the quantity required for his personal consumption and of the members of his household ; or
- (b) the requirements of the normal trading activities of such trader.

(3) No person other than a trader shall have in his possession or custody or under his control any goods in such quantity in excess of the normal personal requirements of such person.

Increase of retail or wholesale price of certain goods and certain services.

18. (1) Where the Minister is of opinion that any goods or any service is essential to the life of the community or part thereof, the Minister in consultation with the Authority may by Order published in the Gazette prescribe such goods or such service as specified goods or specified service as the case may be.

(2) No manufacturer or trader shall increase the retail or wholesale price of any goods or any service specified under subsection (1), except with the prior written approval of the Authority.

(3) A manufacturer or trader who seeks to obtain the approval of the Authority under subsection (2), shall make an application in that behalf to the Authority, and the Authority shall, after holding such inquiry as it may consider appropriate :—

- (a) approve such increase where it is satisfied that the increase is reasonable ; or
- (b) approve any other increase as the Authority may consider reasonable,

and inform the manufacturer or trader of its decision within thirty days of the receipt of such application.

(4) Where the Authority fails to give a decision within thirty days of the receipt of an application as required under subsection (3), the manufacturer or trader who made the application shall be entitled to, notwithstanding the provisions of subsection (1), increase the price :

Provided however, where the delay in giving its decision within the stipulated period was due to the failure of the manufacturer or trader to give any assistance required by the Authority in carrying out its inquiry into the application, the Authority shall have the power to make an interim order preventing the said manufacturer or trader from increasing the price, until the Authority makes its decision on the application.

19. (1) Where it appears to the Director-General that any goods are being sold or any services are being provided by a manufacturer or trader at an excessive price or any market manipulation or other market imperfection exists in respect of such goods or services provided by such manufacturer or trader, the Director-General may, in consultation with the Authority as he may deem necessary and having regard to whether —

Director-General
to refer matters to
the Council.

- (a) the sale of such goods or the provision of such services is of general economic importance ; or
- (b) any category of consumers are significantly affected by such excessive price,

refer such matter to the Council for investigation and report.

(2) The Council shall conclude its investigation and submit its report to the Director-General within two months of such reference being made to it by the Director-General.

Investigation into
a reference made
under section 19.

20. (1) Where any reference is made to the Council by the Director-General under section 19, the Council shall cause such reference to be brought to the notice of such persons, who in the opinion of the Council would have an interest in the proposed investigation to be carried out by it on such reference, and shall further give such persons adequate notice of the date on which the investigation is scheduled to commence.

(2) For the purpose of carrying out an investigation, the Council may by notice in writing require any person or any one authorized by such person, to produce such documents as may be specified in the notice, and at such time and place as mentioned therein, which are under the custody or control of such person and which relates to the matter under investigation.

(3) At the conclusion of an investigation, the Council shall, subject to the provisions of section 21, cause its decision with its reasons to be published in such manner as it shall consider appropriate, and submit a report on such investigation to the Director-General as required under subsection (2) of section 19.

(4) Where the Council concludes that the goods are being sold or the services are being provided at an excessive price, it shall recommend to the Authority in writing the maximum price above which such goods should not be sold or such services should not be provided or the price structure in accordance with which such maximum price shall be fixed.

(5) On receipt of the recommendations of the Council under subsection (4), the Authority shall, by order published in the Gazette, fix the maximum price above which the goods shall not be sold or the services shall not be provided. Every order made under this subsection shall come into operation on the date of publication of such Order in the Gazette.

(6) Nothing in this section shall be construed as precluding the Council from proceeding with a subsequent investigation which relates wholly or partly to the same matter which was the subject matter of a previous investigation carried out under this section.

(7) Any person aggrieved by an order made by the Authority under subsection (5) may appeal against such decision to the Court of Appeal.

(8) Any document produced in compliance with a notice issued under subsection (2) shall be considered confidential, and nothing contained in such document shall be disclosed to any person by the Council, except where it is required to do so under any law.

21. (1) At anytime before making a recommendation under subsection (4) of section 20, the Council may accept any undertaking offered by a manufacturer or trader in respect of whom the investigation is being carried out, regarding the price at which the goods shall be sold or services shall be provided as the case may be, by such manufacturer or trader.

Undertaking to be given on a reference made.

(2) Where an undertaking given under subsection (1) is accepted, it shall be the duty of the Council to —

- (a) give adequate publicity to such undertaking in a manner it considers appropriate ;
- (b) periodically review the implementation of such undertaking ;
- (c) consider whether, by reason of any change in the circumstances —

- (i) the undertaking has become no longer appropriate and as such the person should be released from his duty to implement the undertaking ;
 - (ii) whether any changes should be made to the undertaking ; or
 - (iii) whether the existing undertaking should be replaced by a fresh undertaking ; and
- (d) give notice to the person giving such undertaking, of any failure or shortcoming of such person in implementing the undertaking.

(3) Where the Council is of the view that action should be taken under paragraph (c) of subsection (2), the Council shall issue a notice to the person who entered into the undertaking, informing such person—

- (a) of the changes required to be made to the undertaking ;
- (b) of the requirements of the fresh undertaking which should replace the existing undertaking ; or
- (c) of his release from the duty of implementing the undertaking.

(4) The Council shall, after issue of a notice under subsection (3), make a fresh decision—

- (a) agreeing to a fresh undertaking, or to the undertaking being changed, in accordance with the recommendations made by the Council ; or
- (b) agreeing to a fresh undertaking or to the undertaking being changed as offered by the trader or manufacturer on his own initiative.

(5) Where an undertaking given by a manufacturer or trader is accepted by the Council under this section, any violation of such undertaking by that manufacturer or trader, shall be an offence under this Act.

22. (1) Where goods are being sold or services are being provided at an excessive price and any member of the public or any association of persons or any organisation wish the Council to investigate into the matter, such member of the public, association or organization, as the case may be, may request the Director-General to refer the matter to the Council for investigation.

Members of the public, associations or organizations to refer certain matters to the Director-General.

(2) On receipt of a request under subsection (1) the Director-General may, where he is of the opinion that it is a matter which, having regard to the provisions of section 19 should be investigated into by the Council, refer the matter to the Council for investigation and the provisions of sections 20 and 21 shall, *mutatis mutandis*, apply to and in relation to, such investigation.

23. The Minister may, either of his own motion or on representations made to him by a person or body of persons, refer any question relating to the price of any goods or the charge for any service, to the Authority for examination and report, and accordingly, the Authority shall examine such question and send its report to the Minister within one month from the date of receipt of such reference.

Advisory reference.

24. The Authority 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 goods or the charge for any service and report thereon to the Minister.

Authority to review questions relating to prices of goods &c.

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

Publication of a report made under this Act.

26. (1) Every trader shall exhibit conspicuously in his place of business, a notice specifying the maximum retail or wholesale price, as the case may be, of goods available for sale in his place of business other than the price of any goods, the price of which is marked on the goods itself or on the wrapper or pack containing it or marked in any other manner as may be required by any law.

Trader to display price list.

(2) A complete list of the price of goods available for sale shall be kept within the place of business at all times for inspection whenever required.

Registration of traders.

27. Every trader shall, register with the Authority on payment of an annual fee of a sum not exceeding rupees one hundred thousand as may be determined by the Minister, in consultation with the Minister in charge of the subject of Finance.

Trader to issue receipts to purchasers.

28. Every trader who sells any goods shall on demand, issue to the purchaser thereof, a receipt setting out—

- (a) the date of the sale;
- (b) the quantity of goods sold ;
- (c) the price paid for such quantity;
- (d) nature of the transaction, that is to say, whether the sale was wholesale or retail; and
- (e) any other requirements that may be imposed under any law relating to the issue of receipts by a trader.

Trader to furnish notice board.

29. (1) Every trader shall keep in conspicuous place in his place of business, a notice board for the display of any notice, direction or warning issued by the Authority under this Act.

(2) Every trader shall affix or cause to be affixed on such notice board any notice, direction or warning issued to such trader by the Authority under this Act.

(3) Any person who removes, alters, obliterates, erases or defaces such notice, direction or warning other than a person acting under the direction or authority of the Authority, shall be guilty of an offence under this Act.

Misleading or deceptive conduct.

30. No trader shall, in the course of a trade or business, engage in any type of conduct that is misleading or deceptive or is likely to mislead or deceive the consumer or any other trader.

31. Any trader who, in the course of a trade or business, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services—

False representations.

- (a) falsely represents that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model ;
- (b) falsely represents that goods are new ;
- (c) represents that goods or services have sponsorship, approval, performance, characteristics accessories, uses or benefits they do not have ;
- (d) represents that such trader has a sponsorship approval or affiliation he does not have ;
- (e) makes false or misleading statements concerning the existence of, or amounts of price reduction or price increase ;
- (f) makes false or misleading statements concerning the need for any goods, services, replacements or repairs ; or
- (g) makes false or misleading statements concerning the existence or effect of any warranty or guarantee,

shall be guilty of an offence under this Act.

32. (1) In every contract for the supply of goods or for the provision of services by any person in the course of a business of supply of such goods or provisions of such services to a consumer, there is an implied warranty that—

Warranties in relation to the supply of goods or services.

- (a) the services will be provided with due care and skill ;
- (b) that any materials supplied in connection with provision of such services will be reasonably fit for the purpose for which they are supplied ;
- (c) the goods supplied or services provided will be in conformity with the standards and specifications determined under section 12 of this Act ; and