

- (a) call upon the Authority to submit to the Council its report on the investigation ; and
- (b) hear and determine such application, where the Council is of opinion that there is sufficient material in the report to warrant the Council to take up such application for determination.

PART IV

CONSUMER AFFAIRS COUNCIL

Establishment and constitution of a Consumer Affairs Council.

39. (1) There shall be established for the purpose of this Act a Council to be known as the “Consumer Affairs Council”.

(2) The Council shall consist of the following persons who shall be appointed by the Minister :—

- (a) one person who has had wide experience in the field of commercial law ;
- (b) one person who has had wide experience in the management of business enterprises ; and
- (c) an economist with wide experience in trade practices and consumer affairs.

(3) The members of the Council shall hold office for a period of three years and the Minister shall nominate one of the members to be its Chairman.

(4) The members of the Council shall be paid such remuneration as may be determined by the Minister, in consultation with the Minister in charge of the subject of Finance.

(5) There shall be appointed a Secretary to the Council who shall be responsible for maintaining records of all proceedings of the Council, and for sending out any notices required to be sent by the Council under this Act.

40. (1) The function of the Council shall be to hear and determine all applications and references made to it under this Act.

Function of the Council.

(2) Where a decision of the Council is not unanimous, the decision of the majority of the members shall be deemed to be the decision of the Council.

41. (1) Where an application is made to the Council under section 37 or section 38, as the case may be, the Council shall, on being satisfied that —

Order to be made by the Council.

- (a) an anti-competitive practice exists but such anti-competitive practice does not operate or is not likely to operate against public interest, by order made in that behalf, authorise such anti-competitive practice ; or
- (b) an anti-competitive practice exists and that it operates against public interest, by order made in that behalf, provide for —
 - (i) the termination of such anti-competitive practice in such manner as may be specified in the order ; and
 - (ii) such other action as the Council may consider necessary for the purpose of remedying or preventing the adverse effects of any anti-competitive practice.

(2) In determining for the purposes of this section, whether any anti-competitive practice operates, or is likely to operate, against public interest, the Council shall take into account all matters which appear to the Council to be relevant to the matter under investigation and shall have special regard to the desirability of —

- (a) maintaining and promoting effective competition between persons supplying goods and providing services ;
- (b) 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 supplied and services provided in Sri Lanka ; and
- (c) 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.

(3) Where an application is made to the Council under section 37 or section 38, as the case may be, it shall be the duty of the Council to make its order on such application, within one month of its receipt.

Publication of an order made under section 41.

42. The Authority may cause to be published any order made by the Council under section 41, in such manner as it thinks fit.

Power to issue notices to witnesses.

43. (1) The Council shall have the power to issue notices and examine witnesses at any inquiry or investigation conducted by the Council. Every notice shall be issued under the hand of the Secretary to the Council.

(2) A notice may be issued by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

(3) Every person to whom a notice is issued shall attend before the Council at the time and place mentioned therein, and shall give evidence or produce such documents, records or other things as are required of him and are in his possession or power, according to the tenor of the notice.

44. (1) The Council shall for the purpose of any inquiry or investigation under this Act have power — Evidence.

- (a) to procure and receive all such evidence written or oral, and to examine all such persons as witnesses, as it may think necessary or desirable to procure, receive or examine ; and
- (b) to require the evidence, whether written or oral of any witness to be given on oath or affirmation and such oath or affirmation to be that which would be required of that witness if he was giving evidence in a court, and to administer an oath or affirmation to every such witness.

(2) In the conduct of proceedings under this Act, the Council shall not be bound by any of the provisions of the Evidence Ordinance.

45. If any person upon whom a notice is issued under section 43 —

Failure to obey a notice issued or to give evidence &c.

- (a) fails without cause which in the opinion of the Council is reasonable, to appear before the Council at the time and place mentioned in the notice ;
- (b) refuses to be sworn-in or affirmed, or having been duly sworn-in or affirmed, refuses or fails without cause which in the opinion of the Council is reasonable, to answer any questions put to him relating to the matters being inquired or investigated into by the Council ; or
- (c) refuses or fails without cause, which in the opinion of the Council is reasonable, to produce to the Council any document or other thing which is in his possession or power and which is in the opinion of the Council necessary for arriving at the truth of the matters to be inquired or investigated into,

such person shall be guilty of the offence of contempt against or in disrespect of, the Council.

Punishment for
offence of
contempt.

46. (1) Any act or omission in contravention of the provisions of section 45 shall constitute an offence of contempt against, or in disrespect of the Council, if such act or omission would if done or omitted to be done in relation to the Court of Appeal, have constituted an offence of contempt against, or in disrespect of the authority of such Court.

(2) Where the Council determines that a person has committed an offence of contempt against or in disrespect of its authority, the Council may cause its Chairman to transmit to the Court of Appeal a certificate setting out such determination. Every such certificate shall be signed by the Chairman of the Council.

(3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognisance of as provided for in this section, any document purporting to be a certificate signed and transmitted to such Court under subsection (2), shall—

- (a) be received in evidence, and be deemed to be such a certificate without further proof unless, the contrary is proved; and
- (b) be evidence that the determination set out in the certificate was made by the Council on the facts stated in the determination.

(4) In any proceeding taken as provided for in this section for the punishment of any alleged offence of contempt against or in disrespect of the Council, any member of the Council may be summoned or examined as a witness and any such proceeding shall be heard and disposed of within three months of the receipt of the certificate referred to in subsection (2).

Privileges of
witnesses.

47. Every person who gives evidence before the Council shall in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled to in respect of evidence given by him before such court.

48. The Council may determine the procedure to be followed in the conduct of any inquiry or investigation before such Council.

Procedure to be laid down by the Council.

PART V

FUND OF THE AUTHORITY

49. (1) The Authority shall have its own Fund.

Fund of the Authority.

(2) There shall be paid into the Fund of the Authority —

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Authority ;
- (b) all such sums of money as may be received by the Authority by way of fees or otherwise in the discharge of its functions ;
- (c) the proceeds from the sale of any goods forfeited under this Act ;
- (d) one-third of every fine imposed for the commission of any offence under this Act ;
- (e) all such sums of money as may be made available to it by way of grant or donations ; and
- (f) all such sums of money as are credited or transferred to the Fund under section 59 or section 73.

(3) There shall be paid out of the Fund —

- (a) remuneration payable to the members of the Authority and of the Council ;