

CHAPTER 66.

An Act to make provision for inquiry into the existence and effects of, and for dealing with mischiefs resulting from, or arising in connection with, any conditions of monopoly or restriction or other analogous conditions prevailing as respects the supply of, or the application of any process to, goods, buildings or structures, or as respects exports. [30th July 1948.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

The Monopolies and Restrictive Practices Commission.

Constitution of Commission.

1.—(1) For the purposes of this Act there shall be constituted a Commission, to be called the Monopolies and Restrictive Practices Commission (in this Act referred to as "the Commission").

(2) The Commission shall consist of not less than four nor more than ten members to be appointed by the Board of Trade.

(3) Every member of the Commission shall hold office for such time (not being less than three nor more than seven years) as may be specified by the Board of Trade in making his appointment, and shall not be eligible for re-appointment :

Provided that—

(*a*) the Board may from time to time extend the term of office of a member by such period as the Board think fit, so, however, that his total term of office does not exceed twelve years ;

(*b*) if a member becomes, in the opinion of the Board, unfit to continue in office or incapable of performing his duties under this Act, the Board shall forthwith declare his office to be vacant and shall notify the fact in such manner as they think fit, and thereupon the office shall become vacant;

(*c*) any member may at any time by notice in writing to the Board resign his office.

(4) Such one of the members of the Commission as the Board of Trade may from time to time direct shall be the chairman of the Commission.

(5) The Commission shall appoint a secretary to the Commission and may appoint such other officers and such servants of the Commission as the Commission may, with the consent of the Board of Trade and the Treasury, determine:

Provided that the appointment of any person to be the secretary to the Commission shall be subject to the approval of the Board.

(6) The expenses of the Commission, to such amount as may be determined by the Board of Trade with the approval of the Treasury (including such salaries and other remuneration paid to, and such contributions under pensions schemes paid in respect of, any of their members, officers or servants as may be so determined), shall be paid out of moneys provided by Parliament.

(7) In the case of an equality of votes on any question at a meeting of the Commission, the chairman shall have a second or casting vote.

(8) The quorum necessary for any meeting of the Commission shall be such as the Commission may from time to time determine:

Provided that the quorum necessary at any meeting held for the final settling of a report of the Commission shall not be less than two-thirds of the members of the Commission.

General duties of Commission.

2.—(1) Where it appears to the Board of Trade that it is or may be the fact that conditions to which this Act applies prevail as respects either—

(*a*) the supply of goods of any description; or

(*b*) the application of any process to goods of any description; or

(*c*) exports of goods of any description from the United Kingdom, either generally or to any particular market,

the Board may, if they think fit, refer the matter to the Commission for investigation and report:

Provided that a reference shall not be made under this subsection where the prevalence of the conditions in question is expressly authorised by or under any enactment, other than the enactments relating to patents and trade marks.

(2) Without prejudice to the duties of the Commission where a matter has been referred to them for investigation and report, it shall at all times be the duty of the Commission, at the request of the Board of Trade, to give to the Board any such information and assistance as is in their possession or power in relation to any question connected with conditions to which this Act applies which prevail, are suspected of prevailing or are expected to prevail as respects the supply of goods of any description, as respects the application of any process to goods of any description or as respects exports of goods of any description from the United Kingdom, either generally or to any particular market.

Conditions to which Act applies.

Meaning of "conditions to which this Act applies" in relation to supply.

3.—(1) Conditions to which this Act applies shall be deemed for the purposes of this Act to prevail as respects the supply of goods of any description if either—

(*a*) at least one-third of all the goods of that description which are supplied in the United Kingdom or any substantial part thereof are supplied by or to any one person, or by or to any two or more persons, being inter-connected bodies corporate, or by or to any such two or more persons as are described in subsection (2) of this section; or

(*b*) any agreements or arrangements (whether legally enforceable or not) are in operation the result of which is that, in the United Kingdom or any substantial part thereof, goods of that description are not supplied at all.

(2) The two or more persons referred to in subsection (1) of this section are any two or more persons who, whether voluntarily or not, and whether by agreement or arrangement or not, so conduct their respective affairs as in any way to prevent or restrict competition in connection with the production or supply of goods of the description in question (whether or not they themselves are affected by the competition and whether the competition is between persons interested as suppliers or producers or between persons interested as customers of suppliers or producers):

Provided that in considering whether or not any two or more persons so conduct their affairs as aforesaid, practices as to the workers to be employed or not to be employed by them or as to the remuneration, conditions of employment, hours of work or working conditions of workers, or any class of workers, so employed shall be left out of account.

(3) Where goods of any description are the subject of different forms of supply, the references in the preceding provisions of this section to the supply of the goods (other than the first of those references) shall be construed as references to any of those forms of supply taken separately, to all those forms of supply taken together, or to any of those forms of supply taken in groups, according as the Board of Trade or the Commission, as the case may be, think proper in all the circumstances; and the Board of Trade or the Commission, as the case may be, may treat goods as being the subject of different forms of supply whenever the transactions in question differ as to their nature, their parties, their terms or their surrounding circumstances, and the difference is one which, in the opinion of the Board or the Commission, as the case may be, ought for the purposes of this section to be treated as a material difference.

Meaning of "conditions to which this Act applies" in relation to processing.

4.—(1) Conditions to which this Act applies shall be deemed for the purposes of this Act to prevail as respects the application of any process to goods of any description if either—

(*a*) at least one-third of all the goods of that description to which that process is applied in the United Kingdom or any substantial part thereof are subjected to that process by or for any one person, or by or for any two or more persons, being inter-connected bodies corporate, or by or for any such two or more persons as are described in subsection (2) of this section; or

(*b*) any agreements or arrangements, whether legally enforceable or not, are in operation the result of which is that, in the United Kingdom or any substantial part thereof, that process is not applied at all to goods of that description.

(2) The two or more persons referred to in subsection (1) of this section are any two or more persons who, whether voluntarily or not, and whether by agreement or arrangement or not, so conduct their respective affairs as in any way to prevent or restrict competition in connection with the application of the process in question to goods of the description in question (whether or not they themselves are affected by the competition and whether the competition is between appliers of the process or between persons for whom the process is applied):

Provided that in considering whether or not any two or more persons so conduct their affairs as aforesaid, practices as to the workers to be employed or not to be employed by them, or as to the remuneration, conditions of employment, hours of work or working conditions of workers, or any class of workers, so employed shall be left out of account.

(3) References in the preceding provisions of this section to the application of any process to any goods do not include references to cases where the process is applied by the owner of the goods or his servants.

Meaning of "conditions to which this Act applies" in relation to exports.

5.—(1) Conditions to which this Act applies shall be deemed for the purposes of this Act to prevail as respects exports of goods of any description from the United Kingdom, both generally and to each market taken separately, if any one person produces at least one-third of all the goods of that description which are produced in the United Kingdom.

(2) Conditions to which this Act applies shall also be deemed for the purposes of this Act to prevail as respects exports of goods of any description from the United Kingdom generally if—

(*a*) any agreements or arrangements, whether legally enforceable or not, are in operation which in any way prevent or restrict, or prevent or restrict competition in relation to, the export of goods of that description from the United Kingdom; and

(*b*) the agreements or arrangements are operative as respects at least one-third of all the goods of that description which are produced in the United Kingdom.

(3) Conditions to which this Act applies shall also be deemed for the purposes of this Act to prevail as respects exports of goods of any description from the United Kingdom to any particular market if—

(*a*) any agreements or arrangements, whether legally enforceable or not, are in operation which in any way prevent or restrict, or prevent or restrict competition in relation to, the supply of goods of that description (whether from the United Kingdom or not) to that market; and

(*b*) the agreements or arrangements are operative as respects at least one-third of all the goods of that description which are produced in the United Kingdom.

(4) In considering for the purposes of this section whether any agreements or arrangements in any way prevent or restrict, or prevent or restrict competition in relation to, the export of goods from the United Kingdom or the supply of goods to any market, so much of any agreements or arrangements as relates to the workers who are to be employed or not to be employed by the parties thereto, or to the remuneration, conditions of employment, hours of work or working conditions of workers, or any class of workers, so employed shall be left out of account.

References to Commission for Investigation and Report.

Scope of references to Commission.

6.—(1) A reference of a matter to the Commission under the preceding provisions of this Act for investigation and report shall specify the description of goods to which the reference relates and may be so framed as either—

(*a*) to limit the investigation and report to the facts, that is to say, to the question whether conditions to which this Act applies in fact prevail, and if so in what manner and to what extent, and to the things which are done by the parties concerned as a result of, or for the purpose of preserving, those conditions; or

(*b*) to require the Commission to investigate and report on the facts as aforesaid and also to investigate and report whether the conditions in question or all or any of the things done as aforesaid operate or may be expected to operate against the public interest.

(2) Where the reference of a matter to the Commission under the preceding provisions of this Act for investigation and report is not so framed as to limit the investigation and report to the facts, it may, if the Board of Trade think fit, be so framed as to require the Commission, if they find that conditions to which this Act applies prevail, thereafter to confine their investigation to the question whether any such things as are specified in the reference are done by the parties concerned as a result of, or for the purpose of preserving, those conditions, and, if so, whether or not any of those things operate or may be expected to operate against the public interest.

(3) A reference of a matter to the Commission under the preceding provisions of this Act for investigation and report may, where the matter referred relates to the supply of goods of any description or the application of any process to goods of any description, be so framed as to require the Commission to confine their investigation to the supply of the goods, or the application of the process to the goods, in a specified part of the United Kingdom.

(4) The Board of Trade may at any time vary any reference made by them of a matter to the Commission under the preceding provisions of this Act for investigation and report:

Provided that a reference not so framed as to limit the investigation and report to the facts shall not be varied so as to limit the investigation and report to the facts.

(5) The power conferred by subsection (4) of this section extends to requiring the Commission, where they have already made an investigation and report which is limited to the facts, to proceed with their investigation as if the reference in question had not been so limited, and to make a further report accordingly.

(6) The Board of Trade shall publish every such reference as aforesaid, and every variation of any such reference, in such manner as they think most suitable for bringing it to the notice of persons affected.

Duties of Commission on references.

7.—(1) Where a matter has been referred to the Commission under the preceding provisions of this Act for investigation and report, it shall be the duty of the Commission to include in their report definite conclusions as to the questions covered by the reference and also to include therein such account of the reasons for their conclusions, and such a survey of the general position in respect of the subject matter of the investigation, and of the developments which have led to that position, as are in their opinion expedient for facilitating a proper understanding of the matter.

(2) Where the reference of a matter to the Commission under the preceding provisions of this Act for investigation and report is not so framed as to limit the investigation and report to the facts, the Commission, if they find that conditions to which this Act applies prevail and that those conditions or any things done by the parties concerned as a result of, or for the purpose of preserving, those conditions, operate or may be expected to operate against the public interest, shall, as part of their investigation, consider whether any and if so what action (whether under this Act or otherwise and whether by a Minister of the Crown, government department or other authority or by the parties concerned themselves) should be taken to remedy or prevent any mischiefs which result or may be expected to result from the said conditions or the said things done as aforesaid, and may, if they think fit, include recommendations as to such action in their report.

(3) Where the reference of a matter to the Commission under the preceding provisions of this Act for investigation and report is not so framed as to limit the investigation and report to the facts, and any member of the Commission dissents from any of the conclusions of the Commission as to the questions covered by the reference, the Commission shall, if that member so desires, include in their report a statement of his dissent and of his reasons for dissenting.

Procedure and powers of Commission on references.

8.—(1) The procedure of the Commission in carrying out any investigation where a matter has been referred to them under the preceding provisions of this Act for investigation and report shall be such as the Commission may determine, and in particular the Commission shall have power to determine the extent, if any, to which persons interested or claiming to be interested in the subject matter of the reference are allowed to be present or to be heard, either by themselves or by their representatives, or

to cross-examine witnesses or otherwise take part in the investigation of the Commission, and the extent, if any, to which the sittings of the Commission are held in public:

Provided that where any person appearing to the Commission to be substantially interested, or any body appearing to the Commission to represent substantial numbers of persons substantially interested, submits to the Commission any representations relating to the subject matter of the reference, the Commission shall consider those representations and shall, unless in all the circumstances they consider that it is not reasonably necessary or is not reasonably practicable so to do, permit that person or body to be heard orally by the Commission or by a member of the Commission nominated by the Commission for that purpose.

(2) For the purposes of any such investigation as aforesaid, the Commission or a member of the Commission nominated by them for that purpose may take evidence on oath, and for that purpose administer oaths.

(3) If it appears to the Commission expedient so to do for the purpose of any such investigation as aforesaid, the Commission may, by notice in writing signed on their behalf by any of their members or by their secretary,—

(*a*) require any person to attend at a time and place specified in the notice, and to give evidence to the Commission or a member of the Commission nominated by them for the purpose; or

(*b*) require any person to produce, at a time and place specified in the notice, to the Commission or to any person nominated by the Commission for the purpose, any documents specified or described in the notice, being documents which are in his custody or under his control and relate to any matter relevant to the investigation; or

(*c*) require any person carrying on any trade or business to furnish to the Commission such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished,

and any person who refuses or, without reasonable excuse, fails to do anything duly required of him by such a notice or wilfully alters, suppresses or destroys any document which he has been required to produce by such a notice, or, in furnishing any estimate, return or other information required of him under such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, shall be guilty of an offence under this Act.

(4) The Commission may pay to any person attending under this section to give evidence or producing documents thereunder, and to any person who, whether in pursuance of a requirement under this section or not, furnishes estimates, returns or information to the Commission for the purposes of any such investigation as is referred to in the preceding provisions of this section, such sums in respect of his expenses as they think fit :

Provided that the powers of the Commission under this subsection shall not be exercised in relation to the furnishing of estimates, returns or other information unless, according to their report, conditions to which this Act applies do not prevail in relation to the goods the subject matter of the reference.

(5) Nothing in this section shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(6) The Commission, in determining their procedure and exercising the other powers conferred on them by this section, shall act in accordance with any general directions which may from time to time be given to them by the Board of Trade.

(7) The Board of Trade shall lay before each House of Parliament a copy of any direction given by them under the last preceding subsection.

Publication of reports of Commission.

9. When the Commission report to the Board of Trade on any matter referred to them under the preceding provisions of this Act for investigation and report, the Board may, and, unless the reference was so framed as to limit the investigation and report to the facts, shall, lay the report before each House of Parliament :

Provided that

(*a*) if it appears to the Board of Trade to be contrary to the public interest that the report, or some part thereof, should be made public, the Board of Trade shall lay before Parliament only so much, if any, of the report as in their opinion can be made public without injury to the public interest ;

(*b*) if it appears to the Board of Trade that the publication of any information contained in the report as to any secret process of manufacture or as to the presence, absence or situation of any mineral or other deposits or as to any other similar matter would substantially damage the legitimate business interests of any person, and they are satisfied that the portions of the report embodying that information could be omitted from the report without substantially affecting the sense, clarity or cogency of the report, or the value thereof as an aid

to the proper understanding of the subject matter of the reference, the Board of Trade shall lay the report before Parliament with the omission of those portions thereof.

New Powers of Government Departments for dealing with Conditions to which Act applies.

Power of competent authority to make orders.

10.—(1) The provisions of this section shall have effect where—

(*a*) the Board of Trade have referred a matter to the Commission under the preceding provisions of this Act for investigation and report; and

(*b*) the reference is not so framed as to limit the investigation and report to the facts; and

(*c*) the report of the Commission has been laid before Parliament, with or without omissions; and

(*d*) according to the report of the Commission, as laid before Parliament, conditions to which this Act applies prevail; and

(*e*) either—

(i) according to the report, as laid before Parliament, those conditions, or any things done by the parties concerned as a result of, or for the purpose of preserving, those conditions, operate or may be expected to operate against the public interest; or

(ii) not earlier than three months from the date on which the report was laid before the Commons House of Parliament, a resolution has been passed by that House declaring that those conditions, or any things which, according to the report, as laid before Parliament, are done by the parties concerned as a result of, or for the purpose of preserving, those conditions, operate or may be expected to operate as aforesaid.

(2) A competent authority, for the purpose of remedying or preventing any mischiefs which in their opinion result or may be expected to result from the conditions or things which, according to the report of the Commission, as laid before Parliament, or according to the resolution of the Commons House of Parliament, as the case may be, operate or may be expected to operate as aforesaid, may (whatever the recommendation, if any, made by the Commission) by order do all or any of the following things, that is to say—

(*a*) declare it to be unlawful, except to such extent and in such circumstances as may be provided by or under the order, to make or to carry out any such agreements or arrangements as may be specified or described in the order;

(*b*) require any party to any such agreement or arrangements as may be so specified or described to determine the agreement or arrangements within such time as may be so specified, either wholly or to such extent as may be so specified;

(*c*) declare it to be unlawful, except to such extent and in such circumstances as may be provided by or under the order, to withhold or agree to withhold or threaten to withhold, or to procure others to withhold or agree to withhold or threaten to withhold, from any such persons as may be so specified or described, any supplies or services so specified or described or any orders for any such supplies or services (whether the withholding is absolute or is to be effectual only in particular circumstances);

(*d*) declare it to be unlawful, except to such extent and in such circumstances as may be provided by or under the order, to give or agree to give, or procure others to give or agree to give, any such preference as respects the provision of, or the giving of orders for, supplies or services as may be so specified or described;

(*e*) declare it to be unlawful, except to such extent and in such circumstances as may be provided by or under the order, to require, as a condition of the supplying of goods or services to any person, the buying of any other goods, or the making of any payment in respect of any service, or the doing of any other such matter as may be specified or described in the order.

(3) An order of a competent authority under this section declaring a thing to be unlawful may declare it to be unlawful either for all persons or for such persons as may be specified or described in the order.

(4) Nothing in any order of a competent authority under this section shall have effect so as to apply to any person in relation to his conduct outside the United Kingdom unless he is a British subject, a body corporate incorporated under the law of the United Kingdom or some part thereof, or a person carrying on business in the United Kingdom either alone or in partnership with any other person, but, save as aforesaid, any such order may be so made as to extend to acts or omissions outside the United Kingdom; and any such order may also extend so as to prohibit the carrying out of agreements already in existence at the date of the making of the order.

(5) Nothing in any order of a competent authority under this section shall have effect so as to restrict the restraining of any infringement of a United Kingdom patent or so as to restrict any person as to the conditions which he attaches to a

licence to do anything the doing of which, but for the licence, would be an infringement of a United Kingdom patent.

(6) An order of a competent authority under this section may be revoked or varied by a subsequent order of a competent authority.

(7) The power to make orders under this section shall be exercisable by statutory instrument, and no order shall be made under this section unless a draft thereof has been laid before each House of Parliament and approved by resolution of each House.

Enforcement of orders of competent authority.

11.—(1) No criminal proceedings shall lie against any person by virtue of the making of any order under the last preceding section on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

(2) Nothing in subsection (1) of this section shall limit any right of any person to bring civil proceedings in respect of any contravention or apprehended contravention of any such order, and, without prejudice to the generality of the preceding words, compliance with any such order shall be enforceable by civil proceedings by the Crown for an injunction or for any other appropriate relief.

(3) In the application of subsection (2) of this section to Scotland, for the words "civil proceedings by the Crown for an injunction" there shall be substituted the words "civil proceedings by the Lord Advocate for an interdict".

6 Edw. 7. c. 47.

(4) Section four of the Trade Disputes Act, 1906 (which prohibits actions of tort against trade unions) shall not apply to any civil proceedings in respect of a contravention or apprehended contravention of any order under the last preceding section.

Investigations as to carrying out of recommendations of Commission or competent authority.

12.—(1) Where, on the reference of a matter to the Commission under the preceding provisions of this Act for investigation and report, the Commission include in their report any recommendation as to action to be taken by the parties concerned themselves, or, after considering the report of the Commission on any such reference, a competent authority convey to the parties concerned any recommendation of the authority as to action to be taken by those parties, the Board of Trade may at any time refer to the Commission for investigation and report the question whether and to what extent the parties have complied with that recommendation:

Provided that nothing in this section shall authorise the reference to the Commission of the question whether any order

made by a competent authority under the preceding provisions of this Act has been complied with.

(2) The preceding provisions of this Act relating to the procedure and powers of the Commission on references, to the publication of references and variations of references, and to the publication of the reports of the Commission shall apply in relation to references under this section as they apply in relation to references under the preceding provisions of this Act which are so framed as to limit the investigation and report to the facts.

Saving for other powers.

13. The powers conferred by the three last preceding sections shall be without prejudice to the powers under other Acts of any competent authority, or of any other Minister of the Crown, Government department or other authority, and in particular, to the powers exercisable under the enactments and Defence Regulations relating to the control of prices.

Supplemental provisions.

Public interest.

14. In determining whether any conditions to which this Act applies or any things which are done by the parties concerned as a result of, or for the purpose of preserving, any conditions to which this Act applies, operate or may be expected to operate against the public interest, all matters which appear in the particular circumstances to be relevant shall be taken into account and, amongst other things, regard shall be had to the need, consistently with the general economic position of the United Kingdom, to achieve—

(*a*) the production, treatment and distribution by the most efficient and economical means of goods of such types and qualities, in such volume and at such prices as will best meet the requirements of home and overseas markets;

(*b*) the organisation of industry and trade in such a way that their efficiency is progressively increased and new enterprise is encouraged;

(*c*) the fullest use and best distribution of men, materials and industrial capacity in the United Kingdom; and

(*d*) the development of technical improvements and the expansion of existing markets and the opening up of new markets.

Reports on general questions.

15.—(1) The Board of Trade may at any time require the Commission to submit to them a report on the general effect on the public interest of practices of a specified class, being practices which in the opinion of the Board are commonly adopted as a result of, or for the purpose of preserving, conditions to which this Act applies:

Provided that the Board shall not require a report under this subsection on the general effect of practices of any class unless they are satisfied that practices of that class have been dealt with, in relation to goods of particular descriptions, by previous reports of the Commission and that it is expedient that the views of the Commission in relation to practices of that class should be formulated in a general report.

(2) The provisions of this section shall be without prejudice to the generality of the powers and duties conferred and imposed on the Board of Trade and the Commission by subsection (2) of section two of this Act.

Annual report.

16.—(1) The Board of Trade shall—

(*a*) in the first two months of the year nineteen hundred and fifty, lay before both Houses of Parliament a report as to the operation of this Act up to the end of the year nineteen hundred and forty-nine; and

(*b*) in the first two months of each subsequent year, lay before both Houses of Parliament a report as to the operation of this Act in the year preceding that in which the report is so laid.

(2) Every such report shall, amongst other things, include a review in such detail as the Board think fit of the suggestions and requests (not being suggestions and requests which appear to the Board to be frivolous) which have been made to the Board for the reference of any particular matter to the Commission under the provisions of this Act.

(3) Subject to the provisions of this subsection, where a request has been made to the Board by a body which in the opinion of the Board could properly claim to represent, for the purposes in question, the interests of any of the following, that is to say—

(*a*) consumers in Great Britain or a substantial proportion of those consumers;

(*b*) the organised workers of Great Britain;

(*c*) trade in Great Britain;

(*d*) industry in Great Britain;

(*e*) agriculture in England and Wales or in Scotland;

(*f*) any class of local authorities in England and Wales or in Scotland;

(*g*) the professional workers of Great Britain, of England and Wales or of Scotland, who are particularly concerned,

the review referred to in subsection (2) of this section shall, if the body so require, contain a specific statement that the request has been made by that body, and of the description of goods to which the request relates:

Provided that this subsection shall not apply in the case of a request if the Board of Trade are satisfied that there is no sufficient ground for supposing that it is or may be the fact that conditions to which this Act applies prevail as respects the description of goods in question, or if the request was made within the last three months of the year to which the report relates.

Restrictions on disclosure of information.

17.—(1) No information with respect to any particular trade or business which has been obtained under or by virtue of this Act shall, so long as that trade or business continues to be carried on, be disclosed without the consent of the person for the time being carrying on that trade or business, unless the disclosure is for the purpose of facilitating the proper performance by the Commission, or by a competent authority, of their functions under this Act, or of enabling a Minister of the Crown properly to deal with any questions arising out of or in connection with any conditions to which this Act applies, or for the purposes of, or of any report of, any legal proceedings, whether civil or criminal, under this Act or arising out of the carrying of this Act into effect.

(2) Any person who discloses any information in contravention of this section shall be guilty of an offence under this Act.

(3) Nothing in this section shall be construed as limiting the matters which may be included in, or made public as part of, a report of the Commission, or as applying to any information which has been made public in such a report.

Penalties.

18.—(1) Every person who is guilty of an offence under this Act shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such a fine.

(2) If a refusal or neglect in respect of which a person is convicted of an offence under this Act is continued after the conviction, he shall be guilty of a further offence and may on summary conviction thereof be punished accordingly.

(3) Where an offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Supplemental provisions as to Board of Trade and other Government departments.

19.—(1) Any expenses incurred by the Board of Trade or any other Government department in carrying this Act into effect shall be paid out of moneys provided by Parliament.

(2) Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary or under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

Interpretation.

20.—(1) In this Act, except so far as the context otherwise requires—

"a competent authority" means the Board of Trade, the Minister of Supply, the Minister of Works, the Minister of Fuel and Power, the Minister of Health, the Minister of Agriculture and Fisheries, the Admiralty, the Minister of Food or the Secretary of State;

"goods" includes buildings and structures, and also includes ships and aircraft;

"produce", in relation to minerals or other substances, includes the getting thereof, and, in relation to animals and fish, includes the taking thereof;

"supply" includes supply by way of lease or hire, and in relation to buildings or structures, includes the construction thereof for another.

(2) In this Act, the expression "inter-connected bodies corporate," means bodies corporate which are members of the same group.

In this subsection the expression "group," means a body corporate and all other bodies corporate which are subsidiaries thereof within the meaning of section one hundred and fifty-four of the Companies Act, 1948.

11 & 12 Geo. 6. c. 38.

(3) For the purpose of determining under this Act whether any goods of any description supplied, subjected to a process or produced in the United Kingdom or in any part thereof do or do not amount to at least one-third of all the goods of that description supplied, subjected to the process or produced in the United Kingdom or that part thereof, as the case may be, the Board of Trade and the Commission shall each apply such criterion (whether it be value or cost or price or quantity or capacity or number of workers employed or some other criterion, of whatever nature) or such combination of criteria as may appear to the Board or to the Commission, as the case may be, to be most suitable in all the circumstances.

(4) The criteria to be adopted for determining when goods can be treated, for the purpose of a reference to the Commission under this Act, as goods of a separate description shall be such

as the Board of Trade may think most suitable in all the circumstances of the particular reference, and references in this Act to descriptions of goods shall be construed accordingly.

Application to Northern Ireland, the Isle of Man and the Channel Islands.

21.—(1) It is hereby declared that this Act extends to Northern Ireland, but the Parliament of Northern Ireland shall have the same power to pass Acts with respect to any matter that they would have had if this Act had not passed and, in the event of any inconsistency between any Act of the Parliament of Northern Ireland duly passed after the passing of this Act and any provision of or of any order or other instrument under this Act, the Act of the Parliament of Northern Ireland shall, in Northern Ireland, prevail.

(2) His Majesty may by Order in Council extend this Act to the Isle of Man or any of the Channel Islands, subject, however, to such exceptions, adaptations and modifications as may be specified in the Order.

Short title.

22. This Act may be cited as the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948.

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