

PRICES JUSTIFICATION ACT 1974

No. 47 of 1974

An Act to amend the *Prices Justification Acts 1973*.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows: -

1. (1) This Act may be cited as the *Prices Justification Act 1974*.¹

(2) The *Prices Justification Acts 1973*² are in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Prices Justification Act 1973-1974*.

2. This Act shall come into operation on the day on which it receives the Royal Assent:

3. Section 3 of the Principal Act is amended—

(a) by omitting from the definition of “Chairman” in sub-section (1) the words “appointed to act” and substituting the word “acting”;

(b) by omitting from the definition of “Deputy Chairman” in sub-section (1) the words “the Deputy Chairman” and substituting the words “a Deputy Chairman”; and

(c) by omitting sub-section (2) and substituting the following sub-section:—

“(2) In this Act—

(a) a reference to the supply of goods does not include a reference to—

- (i) a supply for use outside Australia;
- (ii) a supply for which a charge is not made; or
- (iii) any other prescribed supply; and

(b) a reference to the supply of services does not include a reference to

- (i) a supply outside Australia;
- (ii) a supply for which a charge is not made; or
- (iii) any other prescribed supply.”.

4. Section 5 of the Principal Act is repealed and the following section substituted:—

“5. (1) For the purposes of this Act, a company is a prescribed company if, and only if, the sum of the amounts received by that company, or, where that company is included in a relevant group of companies, by the companies in that group, during the period of 12 months that ended on the immediately preceding thirtieth day of June as payments for the supply of goods, or the supply of services, or both, exceeded \$20,000,000.

“(2) A reference in sub-section (1) to the thirtieth day of June shall, in the case of a company that has, or a relevant group of companies that have, adopted accounting periods ending on a day other than the thirtieth day of June, be read as a reference to that other day

“(3) For the purposes of this section, if 2 or more companies are related to each other—

- (a) they constitute a relevant group of companies; and
- (b) each of them is included in any other relevant group of companies in which any of them is included.

“(4) A reference in this section to the supply of goods or services, in relation to a company that is included in a relevant group of companies, does not include a reference to the supply of goods or services by that company to another company that is included in the same group.”

5. Section 7 of the Principal Act is amended by omitting from sub-section (1) the words “one year or more than five years” and substituting the words and figures “1 year or more than 7 years”.

6. (1) Section 13 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:—

“(1) The Governor-General may appoint not more than 2 persons each of whom is, or is to be, a member, other than the Chairman, to be Deputy Chairmen of the Tribunal.

“(1A) For the purposes of this Act, a Deputy Chairman has seniority according to the date of his appointment.”

- (b) by inserting in sub-sections (2) and (3), before the word “Deputy” (wherever occurring), the word “a”; and
- (c) by omitting from sub-section (4) the words “The Deputy Chairman” and substituting the words “A Deputy Chairman”.

(2) The member who held office as Deputy Chairman of the Tribunal immediately before the commencement of this Act continues in office as if he had been appointed as a Deputy Chairman of the Tribunal under the Principal Act as amended by this Act.

7. Section 14 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:—

“(2) Where the Chairman is absent from duty—

- (a) if there are 2 Deputy Chairmen—the senior Deputy Chairman shall act as Chairman during the absence or, if the senior Deputy Chairman is not available to act as Chairman, the other Deputy Chairman shall act as Chairman during the absence;
- (b) if there is only 1 Deputy Chairman—that Deputy Chairman shall act as Chairman during the absence; or
- (c) if there are no Deputy Chairmen, or there is no Deputy Chairman available to act as Chairman—the Minister may appoint a member to act as Chairman during the absence, but any such appointment ceases to have effect if a person is appointed as a Deputy Chairman or a Deputy Chairman becomes available to act as Chairman.

“(3) A person acting as Chairman has all the powers and duties, and shall perform all the functions, conferred on the Chairman by this Act.

“(4) A person acting as Chairman shall act in that capacity on such terms and conditions (if any) as the Governor-General determines.”

8. Section 15 of the Principal Act is amended—

- (a) by omitting sub-section (4) and substituting the following sub-section:—

“(4) In the absence of the Chairman from a meeting of the Tribunal—

- (a) if there are 2 Deputy Chairmen—the senior Deputy Chairman shall preside or, if the senior Deputy Chairman is absent from the meeting, the other Deputy Chairman shall preside; or
 - (b) if there is only one Deputy Chairman—that Deputy Chairman shall preside.”; and
- (b) by omitting from paragraph (a) of sub-section (6) the words “the Deputy Chairman” and substituting the words “a Deputy Chairman”.

9. Section 16 of the Principal Act is repealed and the following section substituted:—

“16. The functions of the Tribunal are to inquire and report to the Minister, in any case where the Tribunal is required to do so by the Minister or the Tribunal considers that it is desirable to do so, whether the price or prices at which a company or companies (whether a prescribed company or prescribed companies or not) supplies or supply, or proposes or propose to supply, goods or services of a particular description is or are justified and, if the Tribunal is of the opinion that the price or any

of the prices is not justified, what lower price for the supply by the company or companies concerned of goods or services of that description would be justified.”.

10. Section 18 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

“(1) If a prescribed company supplies goods or services of a particular description in a locality where the company has, during the immediately preceding period of 30 days, supplied goods or services of that description on the same or substantially similar terms and conditions, and the price at which the company supplies the goods or services is higher than the highest price at which during that preceding period the company supplied goods or services of that description in that locality on the same or substantially similar terms and conditions, the company is guilty of an offence unless—

- (a) a notice in writing stating that the company proposes to supply goods or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the goods or services has been given, as prescribed, to the Tribunal; and
- (b) the event or events referred to in one of the following sub-paragraphs has or have occurred: -
- (i) the prescribed period has expired;
 - (ii) the Tribunal has served notice in writing on the company stating that the Tribunal does not intend to hold an inquiry as to whether the proposed price is justified; or
 - (iii) the Tribunal has served notice in writing on the company specifying a price for the supply of goods or services of that description in that locality on those terms and conditions that the Tribunal considers to be justified, being a price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after service on the company of the notice by the Tribunal, given, as prescribed, to the Tribunal a further notice stating that the price at which the company proposes to supply any goods or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Tribunal.

“(2) If a prescribed company supplies goods or services of a particular description in a locality where the company has previously supplied goods or services of that description on the same or substantially similar terms and conditions but has not, during the immediately preceding period of 30 days, so supplied goods or services of that description and the price at which the company supplies the goods or services is higher than the highest price at which the company has previously supplied goods or services of that description in that locality on the same or substantially similar terms and conditions, the company is guilty of an offence unless—

- (a) a notice in writing stating that the company proposes to supply goods or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the goods or services has been given, as prescribed, to the Tribunal; and
- (b) the event or events referred to in one of the following sub-paragraphs has or have occurred:—
 - (i) the prescribed period has expired;
 - (ii) the Tribunal has served notice in writing on the company stating that the Tribunal does not intend to hold an inquiry as to whether the proposed price is justified; or
 - (iii) the Tribunal has served notice in writing on the company specifying a price for the supply of goods or services of that description in that locality on those terms and conditions that the Tribunal considers to be justified, being a price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after service on the company of the notice by the Tribunal, given, as prescribed, to the Tribunal a further notice stating that the price at which the company proposes to supply any goods or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Tribunal.

“(2A) If a prescribed company supplies goods or services of a particular description in a locality where the company has not previously supplied goods or services of that description, or in a locality where the company has not previously supplied goods or services of that description on the same or substantially similar terms and conditions, and—

- (a) the company has not previously supplied goods or services of that description elsewhere in Australia, or has

not previously supplied goods or services of that description elsewhere in Australia on the same or substantially similar terms and conditions; or

- (b) where the company has previously supplied goods or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the price at which the company supplies the goods or services is higher than the highest price at which the company has previously supplied goods or services of that description in Australia on the same or substantially similar terms and conditions.

the company is guilty of an offence unless —

- (c) a notice in writing stating that the company proposes to supply goods or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the goods or services has been given, as prescribed, to the Tribunal; and
- (d) the event or events referred to in one of the following sub-paragraphs has or have occurred: —
- (i) the prescribed period has expired;
 - (ii) the Tribunal has served notice in writing on the company stating that the Tribunal does not intend to hold an inquiry as to whether the proposed price is justified; or
 - (iii) the Tribunal has served notice in writing on the company specifying a price for the supply of goods or services of that description in that locality on those terms and conditions that the Tribunal considers to be justified, being a price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after service on the company of the notice by the Tribunal, given, as prescribed, to the Tribunal a further notice stating that the price at which the company proposes to supply any goods or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Tribunal.

“(2B) A company that commits an offence against sub-section (1), (2) or (2A) is punishable, on conviction, by a fine not exceeding \$10,000.”;

- (b) by omitting paragraph (b) of sub-section (3) and substituting the following paragraph: —

“(b) where a further notice is so given by the company, the previous notice by the company has effect in accordance with the further notice.”; and

- (c) by omitting sub-sections (4), (5), (6) and (7) and substituting the following sub-sections:—

“(4) Subject to sub-sections (4A), (4B) and (5), the prescribed period for the purposes of this section is the period of 21 days that commenced on the day on which the notice referred to in paragraph (1) (a), (2) (a) or (2A) (c), as the case may be, was given to the Tribunal.

“(4A) The Tribunal may, with the consent of a company, determine, before the expiration of the period of 21 days referred to in sub-section (4), that the prescribed period in relation to that company for the purposes of this section shall be a specified longer period and, in that case, a reference to that longer period shall, for the purposes of the application of sub-section (4) in relation to that company, be deemed to be substituted in that sub-section for the reference to that period of 21 days.

“(4B) Where the Tribunal has served a notice on a company under sub-paragraph (1) (b) (iii), (2) (b) (iii) or (2A) (d) (iii), then, for the purposes of the application of sub-section (4) in relation to that company, the reference in that sub-section to a period of 21 days, or, if a reference to a longer period is deemed to be substituted in that sub-section by the application of sub-section (4A), the reference to that longer period, shall be construed as a reference to the period of 21 days, or to that longer period, as the case may be, increased by a further period of 14 days.

“(5) If the Tribunal serves notice in writing on the company before the expiration of the period that, but for this sub-section, would be the prescribed period in relation to that company for the purposes of this section stating that the Tribunal intends to hold an inquiry as to whether the proposed higher price or the proposed price, as the case may be, is justified, then, notwithstanding sub-sections (4), (4A) and (4B), the prescribed period in relation to the company for the purposes of this section is the period that commenced on the day on which the notice referred to in paragraph (1) (a), (2) (a) or (2A) (c), as the case may be, was given to the Tribunal and ends on whichever is the earlier of the following days:—

- (a) the day on which a copy of the report by the Tribunal in relation to the proposed higher price or the proposed price is received by the company; or

- (b) the fourteenth day after the expiration of—
 - (i) the period of 3 months that commenced on the day on which the Tribunal served notice on the company that it intended to hold the inquiry; or
 - (ii) such further period as is, or such further periods as are, specified in a notice or notices served on the company under sub-section 19 (2).

“(6) When the company receives a copy of a report by the Tribunal in relation to the price at which the company proposes to supply goods or services of a particular description in a particular locality—

- (a) the company shall, within 14 days after the report is so received, give notice in writing to the Tribunal specifying the price at which the company is supplying or proposes to supply goods or services of that description in that locality; and
- (b) the Tribunal shall make particulars of the price available to the public within 14 days after it receives the notice under paragraph (a).

“(7) A company that contravenes paragraph (6) (a) is guilty of an offence and is punishable, on conviction, by a fine not exceeding \$1,000.”

11. After section 18 of the Principal Act the following section is inserted:—

“18A. (1) Where, after the commencement of this section, the Tribunal serves on a company a notice (other than a notice served in consequence of a notice given to the Tribunal by the company under paragraph 18 (1) (a), 18 (2) (a) or 18 (2A) (c)) stating that the Tribunal intends to inquire and report whether the price at which the company supplies or proposes to supply goods or services of a particular description in a particular locality on particular terms and conditions is justified—

- (a) if the company supplied goods or services of that description in that locality on the same or substantially similar terms and conditions during the period of 30 days immediately preceding the date of service of the notice—the company shall not, before the prescribed day, supply goods or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company supplied goods or services of that description in that locality on the same or substantially similar terms and conditions during that period;
- (b) if the company has previously supplied goods or services of that description in that locality on the same or substantially similar terms and conditions but has not, during the period of 30 days

immediately preceding the date of service of the notice, so supplied goods or services of that description—the company shall not, before the prescribed day, supply goods or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company previously supplied goods or services of that description in that locality on the same or substantially similar terms and conditions; or

- (c) if the company has not previously supplied goods or services of that description in that locality, or has not previously supplied goods or services of that description in that locality on the same or substantially similar terms and conditions –

(i) in the case where the company has not previously supplied goods or services of that description elsewhere in Australia, or has not previously supplied goods or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the company shall not, before the prescribed day, supply goods or services of that description in that locality on the first-mentioned terms and conditions; or

(ii) in the case where the company has previously supplied goods or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the company shall not, before the prescribed day, supply goods or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company has previously supplied goods or services of that description in Australia on the same or substantially similar terms and conditions.

Penalty: \$10,000.

(2) For the purposes of sub-section (1), the prescribed day is whichever is the earlier of the following days:—

- (a) the day on which a copy of the report by the Tribunal in relation to the price or proposed price is received by the company; or
- (b) the fourteenth day after the expiration of—
- (i) the period of 4 months that commenced on the day on which the Tribunal served notice on the company that it intended to hold the inquiry; or
- (ii) such further period as is, or such further periods as are, specified in a notice or notices served on the company under sub-section 19 (2).

“(3) When the company receives a copy of the report by the Tribunal in relation to the price at which the company supplies or proposes to supply goods or services of a particular description in a particular locality—

- (a) the company shall, within 14 days after the report is so received, give notice in writing to the Tribunal specifying the price at which the company is supplying or proposes to supply goods or services of that description in that locality; and
- (b) the Tribunal shall make particulars of the price available to the public within 14 days after it receives the notice under paragraph (a).

“(4) A company that contravenes paragraph (3) (a) is guilty of an offence and is punishable, on conviction, by a fine not exceeding \$1,000.”

12. Section 19 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “the price at which a company to which this Act applies supplies or proposes to supply goods or services of a particular description is justified” and substituting the words “the price or prices at which a company or companies supplies or supply, or proposes or propose to supply, goods or services of a particular description is or are justified”;
- (b) by inserting in paragraph (a) of sub-section (1), after the word “company”, the words “or each of the companies”;
- (c) by omitting from the end of paragraph (b) of sub-section (1) the word “and”;
- (d) by omitting paragraph (c) of sub-section (1) and substituting the following paragraphs:—

“(c) complete the inquiry and send a report to the Minister—

- (i) in the case of an inquiry held in consequence of a notice given to the Tribunal under paragraph 18 (1) (a), 18 (2) (a) or 18 (2A) (c)—within 3 months from the date on which the Tribunal served notice on the company or companies in accordance with paragraph (a) of this sub-section; or
- (ii) in any other case—within 4 months from the date on which the Tribunal served notice on the company or companies in accordance with paragraph (a);

“(d) on the day on which it sends the report to the Minister, send a copy of the report to the company or each of the companies; and

“(e) as soon as practicable after the company or each of the companies has received a copy of the report, make copies of the report available for inspection by the public.”; and

- (e) by omitting sub-section (2) and substituting the following sub-section:—

“(2) If the Tribunal is of the opinion that the company or any of the companies has failed to provide the Tribunal with sufficient information to enable the Tribunal to complete its inquiry and report within the period applicable under paragraph (1) (c), or within any further period or periods specified in any other notice or notices served on the company or each of the companies in pursuance of this sub-section, the Tribunal shall serve notice in writing on the company or each of the companies stating that the Tribunal is of that opinion and that it requires a further period specified in the notice within which to complete its inquiry and report.”

13. After section 19 of the Principal Act the following section is inserted:—

“19A. Where the Tribunal has served a notice on a company under this Act, the Tribunal may, by notice in writing served on the company, withdraw the notice previously served on the company and, in that case, this Act has effect as if the notice so withdrawn had not been served on the company.”

14. Section 22 of the Principal Act is amended by omitting from sub-section (4) the words “the Deputy Chairman” and substituting the words “a Deputy Chairman”.

15. Section 23 of the Principal Act is amended by omitting from paragraph (a) of sub-section (2) the words “a company to which this Act applies” and substituting the words “a prescribed company”.

16. Section 28 of the Principal Act is repealed.

NOTES

1. Act No. 47, 1974; assented to 21 August 1974.
2. Act No. 37, 1973, as amended by No. 216, 1973 (as amended by No. 20, 1974).