

1961/24

THE BOARD OF REVIEW REGULATIONS 1961

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 4th day of April 1961

Present:

THE RIGHT HON. KEITH HOLYOAKE, PRESIDING IN COUNCIL

PURSUANT to the Inland Revenue Department Act 1952, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Board of Review Regulations 1961.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. (1) In these regulations, unless the context otherwise requires,—

“The Act” means the Inland Revenue Department Act 1952:

“Appeal” means a proceeding before a Board of Review under the Inland Revenue Department Amendment Act 1960 for the determination of an objection to an assessment of tax or duty or to a decision or determination of the Commissioner of Inland Revenue; and the term “appellant” means the person by whom any such objection has been made.

(2) Expressions used in these regulations, unless the context otherwise requires, have the same meanings as in the Act.

3. The parties to an appeal shall be the appellant and the Commissioner as respondent.

4. (1) For the purpose of every appeal the Commissioner shall state and sign a case setting forth the facts as alleged by him, the assessment of tax or duty or the decision or determination made by him, the ground of objection thereto, and the questions for the determination of the Board of Review.

(2) The case, so stated and signed, shall be filed in quadruplicate by the Commissioner with the Registrar of the Board, and the filing of the case shall be deemed to be the institution of the appeal.

(3) A copy of the case so filed shall be served by the Commissioner on the appellant, either personally or by sending it to him by registered post addressed to him at his usual or last-known place of abode or business in New Zealand, in which case it shall be deemed to have been received when in the ordinary course of post it would be delivered.

Service upon a solicitor who accepts service in writing on behalf of the appellant shall be deemed for the purposes of this subclause to be personal service on the appellant.

5. (1) Subject to the provisions of this regulation, the Commissioner shall file the case with the Registrar of the Board within a period of six months after the date of the receipt by the Commissioner of the notice by the appellant requiring the objection to be heard and determined by a Board of Review.

(2) The Board may, on the application of the Commissioner, extend the time for the filing of the case until such date as the Board thinks fit.

(3) Where the case is not filed with the Registrar within the time fixed by or extended pursuant to the foregoing provisions of this regulation, the appellant may apply to a Board of Review for an order allowing his objection, and the Board shall make an order accordingly, unless it is satisfied that there are reasonable grounds for the failure to file the case. Where the Board refuses to make such an order, it may make such other order as in the circumstances it thinks fit.

(4) Notice of every application to the Board under subclause (2) or subclause (3) of this regulation shall be given to the other party to the appeal, who shall be entitled to appear before the Board and be heard in opposition thereto.

6. Within one month after the copy of the case is served on the appellant, or within such further time as the Commissioner or the Board may allow, the appellant may, if he thinks fit, file an answer to the case, setting forth the facts as alleged by the appellant. The answer shall be filed in quadruplicate, and the appellant shall send a copy of his answer to the Commissioner, either by post or otherwise.

7. Neither the case as stated and filed by the Commissioner nor the answer filed by the appellant shall be conclusive as to the matters set forth therein, either against the appellant or the Commissioner, except so far as agreed to in writing by or on behalf of the Commissioner and the appellant.

8. (1) At any time and from time to time before the hearing of a case stated by the Commissioner—

(a) The Commissioner may file with the Registrar of the Board an amended case:

(b) The appellant may file with the Registrar of the Board an amended answer.

(2) The provisions of regulations 4, 6, and 7 of these regulations shall apply with respect to every amended case or answer filed under this regulation.

9. After the filing of the case by the Commissioner, the Board, or the Chairman, or the Registrar or Deputy Registrar of the Board purporting to act by direction or with the authority of the Chairman shall, on the application of the Commissioner or of the appellant, appoint a time and place for the hearing of the appeal, that time not being earlier (except with the consent of the Commissioner and the appellant) than 6 weeks after the date of the filing of the case.

10. Reasonable notice by post or otherwise of the time and place so appointed shall be given by the Registrar or Deputy Registrar of the Board to the Commissioner and to the appellant.

11. During any period in which more than one Board of Review is established, every appeal shall be instituted before such Board as the Commissioner selects, having due regard to the convenience of the appellant; and the Board so selected shall be deemed to be the Board referred to in the foregoing provisions of these regulations.

12. (1) Every Board may, from time to time, compile and publish reports of matters brought before it and of its decisions thereon, or the Board or the Chairman may authorise any person to compile and publish such reports, but no such report shall contain the name of the appellant or other particulars which are likely to identify the appellant and which, in the opinion of the Board or the Chairman, can be omitted from the report without affecting its usefulness or value.

(2) Neither the delivery to a publisher of a report compiled pursuant to subclause (1) of this regulation nor the publication of any such report shall constitute a breach of section 12 of the Inland Revenue Department Act 1952 or of any oath of secrecy taken and subscribed pursuant to that section or constitute an offence under that section.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

The regulations prescribe the procedure of a Board of Review established under the Inland Revenue Department Amendment Act 1960 in relation to objections which under the Inland Revenue Acts are to be determined by a Board.

Regulation 12 makes provision for the publication of decisions of a Board.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 April 1961.

These regulations are administered in the Inland Revenue Department.