

Serial Number 1942/336



**THE CONTROL OF PRICES EMERGENCY REGULATIONS 1939,
AMENDMENT No. 3**

C. L. N. NEWALL, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 15th day of
December, 1942.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Control of Prices Emergency Regulations 1939, Amendment No. 3, and shall be read together with and deemed part of the Control of Prices Emergency Regulations 1939* (hereinafter referred to as the principal regulations).

APPLICATION OF PRINCIPAL REGULATIONS TO LOCAL AUTHORITIES.

2. (1) In this clause the term "local authority" includes every local authority and public body created by or pursuant to any public Act or local Act.

(2) For the purposes of the principal regulations and also of the Price Stabilization Emergency Regulations 1939†, the term "person", unless the context otherwise requires, includes, and shall be deemed at all times heretofore to have included, any local authority that is authorized by or by virtue of any Act to sell any goods or classes of goods or to render any services or classes of services and to fix prices or charges in respect thereof.

(3) No proceedings shall be taken against any local authority for any offence against the principal regulations or the Price Stabilization Emergency Regulations 1939, committed before the commencement of these regulations, and no proceedings shall be taken in respect of prices or charges fixed by any local authority before the commencement of these regulations unless the local authority, on being required to do by the Tribunal, fails, within a time to be specified by the Tribunal, to reduce the rates of its prices or charges in accordance with the directions of the Tribunal.

* Statutory Regulations 1939, Serial number 1939/275, page 1057.

† Statutory Regulations 1939, Serial number 1939/122, page 574.

SPECIAL PROVISIONS AS TO "PROFITEERING" AND "BLACK-MARKETING."

3. (1) Every person commits an offence against this clause who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any goods at a price which is unreasonably high.

(2) For the purposes of this clause the price of any goods shall be deemed to be unreasonably high if it produces, or is calculated to produce, more than a fair and reasonable rate of commercial profit to the person selling or supplying, or offering to sell or supply, those goods, or to his principal:

Provided that no price that has been fixed or approved by the Tribunal shall be deemed, for the purposes of this clause, to be unreasonably high.

(3) In determining, in the course of any proceedings for an offence against this clause, whether or not the price of any goods is or was unreasonably high, no account shall be taken of the cost to the seller or, as the case may be, to his principal, that has been or that would be involved in replacing those goods for the purposes of his business, or of the cost-price or the selling-price of any other goods.

(4) Subject to the foregoing provisions of this clause, the Court shall determine, for the purposes of any proceedings for an offence against this clause, whether or not any price is or was unreasonably high.

(5) Every person who (whether as seller or purchaser or otherwise howsoever) commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with any other person to commit, any offence against this clause shall be liable, in the case of an individual, to a fine not less in any case than £50, but not exceeding £1,000, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and, in the case of a company or other corporation, to a fine not less in any case than £250, but not exceeding £5,000.

4. (1) Every person commits an offence against this clause who, whether as principal or agent, and whether by himself or his agent, sells any goods for purposes of resale, to any person other than a retailer for purposes of retail sale or a manufacturer for the purposes of his business,—

(a) Unless the wholesale price has been fixed by a price-order, and the price charged by the seller is in conformity with the terms of that order; or

(b) Unless the wholesale price has been fixed with the general approval of the Tribunal, or has been fixed with the special approval of the Tribunal given to the vendor or the purchaser, and the price charged by the seller is in conformity with the approval of the Tribunal:

Provided that no person shall be deemed to have committed an offence against this clause in respect of the sale of any goods at a price that is not in excess of the fixed price or the standard price thereof, within the meaning of the Price Stabilization Emergency Regulations 1939.

(2) Every person who (whether as seller, or purchaser, or otherwise) commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to

commit, or conspires with any person to commit, any offence against this clause shall be liable, in the case of an individual, to a fine not less in any case than £50, but not exceeding £1,000, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and in the case of a company or other corporation to a fine not less in any case than £250, but not exceeding £5,000.

5. (1) If on the conviction of any person for an offence against clause 3 or clause 4 hereof, the goods or any of the goods in respect of which the proceedings were taken are found to be the property of the convicted person, the convicting Court, in addition to imposing any other penalty, may make an order for the forfeiture of those goods or of any of them to the Crown.

(2) All goods forfeited pursuant to this clause shall, on forfeiture, become the property of the Crown, and may be sold or otherwise disposed of as the Minister may direct.

(3) The net proceeds derived from the sale or other disposition of such goods (after defraying the cost of sale or other disposition and any claims in respect thereof made and proved by innocent persons) shall be paid into the War Expenses Account.

PROVISION FOR FORFEITURE OF EXCESS OVER AUTHORIZED PRICES.

6. (1) In this clause the expression "authorized price," in relation to any goods, means the price or the maximum price for which such goods may lawfully be sold.

(2) On the conviction of any person of an offence involving the sale of any goods at a price in excess of the authorized price the convicting Court, on application by or on behalf of the Tribunal, may make an order for payment by the defendant into the War Expenses Account of an amount not exceeding the difference (as specified by the Court) between the price actually charged by the defendant and the authorized price.

(3) All moneys payable into the War Expenses Account pursuant to an order made under this clause shall be recoverable, in accordance with the Summary Penalties Act, 1939, in the same manner as fines are recoverable.

TRIBUNAL MAY ISSUE "PRICE-REDUCTION ORDERS."

7. (1) The Tribunal may from time to time, with the authority of the Minister, make orders (herein referred to as price-reduction orders) for the reduction of the prices of any goods of the kinds or classes specified or referred to in any such order. An order may be made under this clause in respect of any goods, whether the prices or the maximum prices that could lawfully be charged for those goods or for goods of the same kind or class before the coming into force of the price-reduction order have been fixed by a price-order under the principal regulations, or have been approved by the Minister or the Tribunal in accordance with clause 11 of the Price Stabilization Emergency Regulations 1939, or are determinable by reference to the fixed price or the standard price thereof in accordance with the last-mentioned regulations.

(2) Any price-reduction order made under this clause may be of general application throughout New Zealand, or its application may be restricted to the sale of goods of the kinds or classes to which the order relates—

- (a) Within a specified locality or within localities of a specified class; or
- (b) By any specified seller or by sellers of a specified class.

(3) Any price-reduction order may require prices to be reduced by a specified amount or percentage, or may effect the required reduction of prices by reducing any margins between the cost-price and the selling-price of any goods to which the order relates.

(4) The Tribunal may include in any price-reduction order any provisions, not inconsistent with the principal regulations, that it considers necessary or desirable for the proper administration of the order or to ensure compliance with the terms thereof.

(5) Notice of every price-reduction order made under this clause shall be given as follows:—

- (a) In the case of an order of general application throughout New Zealand, notice of the making of the order and of the provisions thereof shall be published in the same manner as regulations under any Act are required to be published:
 - (b) In the case of an order the application of which is restricted to a specified locality or to localities of a specified class, notice of the making of the order and of the provisions thereof shall be given by publication in such newspaper or newspapers circulating in the locality or in the several localities as the Tribunal may determine:
 - (c) In the case of an order the application of which is restricted to sales by any specified person or by specified persons, notice in writing of the making of the order and of the provisions thereof shall be given to the person or persons to whom the order is addressed, or to the agent or manager or the representative of any such person:
 - (d) In the case of any order as aforesaid, any notice given in the manner hereinbefore prescribed may also be given in such other manner, if any, as in the circumstances of the case the Tribunal thinks fit.
- (6) Every price-reduction order made under this clause shall have the same effect as if it were a price-order made under clause 17 of the principal regulations, and the provisions of those regulations as to price-orders (including the penal provisions) shall apply accordingly to orders made under this clause.

APPLICATION OF PRINCIPAL REGULATIONS TO HIRE-PURCHASE AGREEMENTS.

8. (1) For the purposes of this clause—

“Hire-purchase agreement” means an agreement whereby goods are let or hired with an option of purchase, or an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as such, or as rent or hire, or otherwise howsoever):

“Vendor” and “purchaser” have respectively the same meanings as in the Hire-purchase Agreements Act, 1939.

(2) The disposition of any goods by a hire-purchase agreement entered into after the coming into force of these regulations shall be deemed for the purposes of the principal regulations and of the Price Stabilization Emergency Regulations 1939 to be a sale of those goods from the vendor to the purchaser on the date on which possession of the goods is delivered to the purchaser.

(3) The purchase-price of any goods subject to a hire-purchase agreement as aforesaid shall be deemed to be the total amount of the moneys required to be paid by the purchaser under the agreement and the value of any other consideration provided or required to be provided by the purchaser.

TRIBUNAL MAY PROHIBIT THE SALE OF DECLARED CLASSES OF GOODS
PENDING THE FIXATION OF PRICES.

9. (1) The Tribunal may at any time, by notice published in the *Gazette* and in such other manner, if any, as it thinks fit, declare any goods or goods belonging to a specified kind or class to be goods to which the provisions of this clause shall be applicable.

(2) By the same or a subsequent notice, given in such manner as the Tribunal deems adequate in the circumstances of the case, the Tribunal may prohibit absolutely or conditionally the sale of any such goods by any specified person or by any person of a specified class, or by any person whomsoever unless the Tribunal has made a price-order in respect of such goods or has approved a selling-price or a maximum selling-price therefor.

(3) Every person who, while a notice under the last preceding subclause remains in force, sells or agrees or offers to sell any goods in contravention of the terms of that notice shall be guilty of an offence against the principal regulations.

(4) If in any proceedings for an offence against this clause the defendant alleges that the goods or any of the goods to which the proceedings relate were not goods subject to the terms of a notice given by the Tribunal under this clause the burden of proving in respect of such goods that they were not subject to the terms of such notice shall be on the defendant.

MISCELLANEOUS PROVISIONS.

10. (1) The Tribunal may from time to time, by notice given in such manner as it thinks fit, require any person engaged in the production, manufacture, or sale of any goods, or all persons belonging to any specified class or to specified classes of persons so engaged (with or without exception) to furnish within a specified time and in a specified form or in a form acceptable to the Tribunal, returns setting forth all or any of the following particulars, namely:—

(a) The quantity of such goods or of any of such goods in the possession or under the control of the person making the return at a specified date:

(b) The cost-price of those goods to the person making the return:

(c) The methods and principles in accordance with which such cost-price has been determined:

(d) Where the selling-price or the maximum selling-price has not been fixed by or pursuant to the principal regulations or the Price Stabilization Emergency Regulations 1939, the prices for which and the terms and conditions on which he proposes to sell any such goods, or the prices, terms, and conditions for and subject to which he has theretofore sold any such goods:

(e) The prices (whether wholesale or retail) charged by the person making the return for goods of the same or substantially the same kind on the 1st September, 1939, or on any other date specified by or acceptable to the Tribunal:

(f) Such further particulars in relation to any such goods or prices or conditions of sale as the Tribunal may require.

(2) Every return furnished pursuant to this clause shall be verified by statutory declaration or otherwise as the Tribunal may require.

(3) In any prosecution for an offence against the principal regulations or the Price Stabilization Emergency Regulations 1939 the production of any return furnished by the defendant pursuant to this clause or the production of any copy of or extract from any such return, certified under the seal of the Tribunal to be a correct copy or extract, shall be sufficient evidence against the defendant, unless and until he proves the contrary, of the truth of the statements contained therein.

11. Where in any proceedings the standard price of any goods or the standard rate chargeable for any services is in issue, and the Court is of opinion that the standard price or the standard rate, within the meaning of the Price Stabilization Emergency Regulations 1939, cannot for any reason be determined, the Court, on such evidence as it thinks sufficient, shall fix a fair and reasonable price or a fair and reasonable rate for those goods or services as on the fixed day and the price or rate so fixed shall in those proceedings be deemed to be the standard price or the standard rate.

12. In any proceedings under the principal regulations or the Price Stabilization Emergency Regulations 1939 for an offence in respect of the sale of any goods, the production by or on behalf of the informant of any verified copy of any entry in any accounts or records kept by or on behalf of the defendant or of any invoice, receipt, sales-docket, or other document issued by or on behalf of the defendant and purporting to disclose the price at which any goods have been sold shall be sufficient evidence of such price unless and until the contrary is proved, either by the informant or the defendant.

13. (1) Where in any authority given by the Tribunal for the purposes of clause 11 of the Price Stabilization Emergency Regulations 1939, or in any price-order issued by the Tribunal under clause 17 of the principal regulations, the vendor of any goods is authorized to take any freight charges into account in ascertaining the selling-price or the maximum selling-price of any goods, the maximum amount that may be taken into account in respect of such charges shall, in case of dispute, be provisionally fixed by the Tribunal, and in any proceedings in which the amount of such freight charges is in issue the onus of proving that the actual freight charges exceeded the amount provisionally fixed by the Tribunal shall be on the defendant.

(2) The provisions of the last preceding subclause shall apply in every case where the amount of any freight charges is in issue in any proceedings, whether the authority to take such freight charges into account was given by the Tribunal before or after the commencement of these regulations.

14. (1) Every person shall be guilty of an offence against the Price Stabilization Emergency Regulations 1939 who agrees to sell or who offers to sell any goods at a price in excess of the maximum price at which he could lawfully sell those goods in accordance with the said regulations.

(2) For the purposes of the said regulations and of the principal regulations (including these regulations) the publication or exhibition of a price-list in respect of any goods or the furnishing of a quotation for any goods, or the exposure of any goods with a specification or an indication of the price thereof attached thereto or displayed in the vicinity thereof or in connection therewith, shall be deemed to constitute an offer to sell those goods at the price so specified or indicated.

15. (1) Clause 17 of the principal regulations is hereby amended, as from the commencement of those regulations, by inserting, after subclause (2), the following subclause :—

“(2A) In any price-order issued under this clause the Tribunal may include such provisions, not inconsistent with these regulations, as it thinks necessary or desirable for the proper administration of the price-order or to ensure compliance with the terms thereof, and every person shall be deemed to have committed an offence against these regulations who commits a breach of or fails to comply with any obligations imposed on him by any such provisions.”

(2) Any authority given by the Minister or the Tribunal under or for the purposes of clause 11 of the Price Stabilization Emergency Regulations 1939 may be given subject to such conditions as the Minister or the Tribunal, as the case may be, thinks fit, and every person shall be deemed to have committed an offence against the said regulations who commits a breach of or who fails to comply with the said conditions or any of them.

16. (1) Subclause (4) of clause 17 of the principal regulations (as set out in clause 2 of the Control of Prices Emergency Regulations 1939, Amendment No. 2)* is hereby revoked, and the following subclause is hereby substituted therefor :—

“(4) It shall be the duty of every retailer who is for the time being engaged in the business of selling any goods of which the retail price is fixed by a price-order under this clause to keep a copy of the price-order or a statement of the prices fixed thereby in respect of such goods prominently displayed in his shop so that customers may freely consult the price-order or statement without having to ask for or obtain permission to do so.”

(2) The obligation imposed on retailers by the foregoing provisions of this clause shall commence to operate as follows :—

- (a) With respect to price-orders that have been issued before the commencement of these regulations, on the expiration of fourteen days after the commencement of these regulations :
- (b) With respect to any other price-order, on the expiration of fourteen days after the date of the publication of the price-order.

(3) Clause 2 of the Control of Prices Emergency Regulations 1939, Amendment No. 2, is hereby consequentially revoked.

C. A. JEFFERY,
Clerk of the Executive Council.

* Statutory Regulations 1942, Serial number 1942/12, page 34.

Issued under the authority of the Regulations Act, 1936.

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These regulations are administered in the Department of Industries and Commerce, Tourist and Publicity.