

1973/321



THE ECONOMIC STABILISATION (AVIATION FUEL)
REGULATIONS 1973

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 20th day of December 1973

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Economic Stabilisation Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Economic Stabilisation (Aviation Fuel) Regulations 1973.

(2) Regulations 5, 7, 8, 9, 10, and 11 of these regulations shall come into force on a date to be appointed by the Minister by notice in the *Gazette*, and different dates may be so appointed for the purpose of different provisions of those regulations.

(3) Except as provided in subclause (2) of this regulation, these regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Aircraft” means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth:

“Allocation certificate” means an allocation certificate issued under regulation 8 of these regulations:

“Approved installation” means any above-ground tank, underground tank, compound, depot, building, or place, approved by an Inspector of Dangerous Goods under the Dangerous Goods Act 1957 for the storage of aviation fuel:

“Aviation fuel” means petroleum or kerosene supplied for use in aircraft; and includes av-gas:

- “Bulk consumer” means any person who purchases aviation fuel from a wholesaler for use in his own business and not for resale:
- “Bulk holder” means a person who holds any aviation fuel in bulk in an approved installation for use in his own business and not for resale:
- “Controller” means the Controller of Aviation Fuel under these regulations:
- “Deputy Controller” means the Deputy Controller of Aviation Fuel appointed under regulation 4 of these regulations by the Controller:
- “Distributor” includes every wholesaler, retailer, bulk holder, or bulk consumer, and every other person engaged in any manner whatsoever in the supply of any aviation fuel, whether for use by others or for use in his own business:
- “In bulk”, in relation to any aviation fuel, means stored in receptacles of a capacity greater than 410 litres:
- “Kerosene” means a refined petroleum distillate intermediate in volatility between motor spirits and diesel fuel, with a distillation range normally within the limits of 150° Centigrade and 300° Centigrade, suitable for certain types of combustion engines:
- “Minister” means the Minister of Civil Aviation and Meteorological Services:
- “Person” includes a corporation sole, and also a body of persons, whether corporate or unincorporate:
- “Petroleum” means—
- (a) Motor spirits within the meaning of the Motor Spirits Duty Act 1961; and
 - (b) Diesel fuel, being a refined petroleum distillate with a distillation range normally within the limits of 180° Centigrade and 370° Centigrade, suitable for use as a fuel for high-speed diesel engines and being of such a nature that, when submitted to distillation in standard apparatus, not less than 90 percent by volume distils at 350° Centigrade; and includes any blend of diesel fuel and kerosene; and
 - (c) Light fuel oils and heavy fuel oils:
- “Purchase” includes every form of acquisition (whether for valuable consideration or otherwise); and “to purchase” and “purchaser” have corresponding meanings:
- “Regional Controller” means a Regional Controller of Aviation Fuel appointed under regulation 4 of these regulations by the Controller:
- “Retailer”, in relation to any aviation fuel, means a person, other than a wholesaler, who sells that aviation fuel to any other person, whether in conjunction with any other business or not; and in respect of a sale made by a wholesaler to any person, other than a bulk consumer, for any purpose other than resale, includes that wholesaler:
- “Sale” includes every form of disposition (whether for valuable consideration or otherwise); and “to sell” and “seller” have corresponding meanings:
- “Wholesaler”, in relation to any aviation fuel, means a person who sells that aviation fuel to any other person for the purposes of resale, or to any other person who purchases the aviation fuel as a bulk consumer.

3. Controller of Aviation Fuel—(1) The person who is for the time being the Secretary for Transport appointed under the Ministry of Transport Act 1968 shall be the Controller of Aviation Fuel for the purposes of these regulations.

(2) In the exercise and performance of his functions and powers under these regulations, the Controller shall act in accordance with any general or special directions that may from time to time be given to him by the Minister.

4. Deputy Controller and Regional Controllers—(1) The Controller may from time to time, by notice in the *Gazette*, appoint—

(a) A person to be the Deputy Controller of Aviation Fuel; and

(b) One or more persons to be Regional Controllers of Aviation Fuel within such areas in New Zealand as the Controller may from time to time specify.

(2) Subject to any general or special directions from time to time given to him by the Controller, the Deputy Controller shall have and may exercise and perform all the functions and powers of the Controller under these regulations.

(3) Subject to any general or special directions from time to time given to him by the Controller, a Regional Controller shall have and may exercise, within the area in respect of which he is appointed, all the functions and powers of the Controller under these regulations; but no act or decision of a Regional Controller shall be questioned by reason only of the fact it is done or made outside the area in respect of which he is appointed, or in respect of any place or of any matter arising outside that area.

5. Restrictions on disposal and use of aviation fuel—(1) No distributor shall sell any aviation fuel to any person unless, at the time of the transaction, the purchaser surrenders to the distributor an allocation certificate that authorises the purchaser to obtain that aviation fuel.

(2) No person shall purchase any aviation fuel from a distributor unless, at the time of the transaction, the purchaser surrenders to the distributor an allocation certificate that authorises the purchaser to obtain that aviation fuel.

(3) Notwithstanding subclause (1) or subclause (2) of this regulation, a distributor may sell any aviation fuel to any person, and that person may purchase that aviation fuel from the distributor, if—

(a) At the time of the transaction, the purchaser produces to the distributor an allocation certificate that authorises the purchaser to obtain a greater quantity of aviation fuel than that to be supplied under the transaction; and

(b) The quantity of aviation fuel to be supplied under the transaction, together with any quantities already obtained by the purchaser (whether from that distributor or from any other distributors), does not exceed the total quantity that the purchaser is authorised by the allocation certificate to obtain; and

(c) At the time of the transaction, the distributor certifies on the allocation certificate the quantity of aviation fuel that he supplies to the purchaser under the transaction; and

(d) At the time of the transaction, the distributor makes and retains a separate record of—

- (i) The number of the allocation certificate; and
- (ii) The name and address of the purchaser; and
- (iii) The quantity of aviation fuel he supplies to the purchaser under the transaction; and
- (iv) The date of the transaction.

(4) No person who obtains any aviation fuel in accordance with an allocation certificate shall use that aviation fuel otherwise than in accordance with the terms and conditions of the allocation certificate.

(5) Every person who contravenes any of the subclauses (1) to (4) of this regulation commits an offence against these regulations.

6. Aviation fuel to be at disposal of Controller—(1) All aviation fuel in New Zealand shall be at the disposal of the Controller in accordance with these regulations.

(2) These regulations shall apply notwithstanding the provisions of any other enactment or of any terms in any contract or deed entered into by any person or persons (whether before or after the commencement of these regulations).

7. Applications for allocation certificates—(1) Every person who wishes to obtain an allocation certificate shall apply in writing to Regional Controller (if any) of the area in which the applicant resides or carries on business or (if there is no Regional Controller) to the Controller.

(2) Where the Controller provides a form of application, the application shall be made in that form.

(3) In addition to any other information required by the Controller, the application shall specify the following information:

- (a) The name, address, and occupation of the applicant;
- (b) The purpose for which the aviation fuel is required;
- (c) The status of the applicant, that is, whether he is a wholesaler, retailer, bulk holder, bulk consumer, distributor, or private or public purchaser.

8. Issue of allocation certificates—(1) The Controller may in his absolute discretion grant or refuse to grant any application for an allocation certificate.

(2) In granting an application for an allocation certificate, the Controller may impose such terms and conditions as he thinks fit in respect of that allocation certificate.

(3) Where the Controller grants an application for an allocation certificate, the Controller shall issue an allocation certificate under his hand, in such form as he thinks fit, to the applicant. The Controller shall set out in the allocation certificate all terms and conditions imposed by him under subclause (2) of this regulation.

(4) An allocation certificate shall authorise the person to whom it is issued to obtain and use aviation fuel in accordance with the terms and conditions set out in the certificate.

9. Records of distributors—(1) Immediately after the commencement of these regulations, every distributor shall make a record of the meter reading on all pumps used by him for the supply of aviation fuel, and shall, by gauging by dipstick or by any other appropriate method, ascertain and record the quantities of aviation fuel in all tanks, containers, and approved installations that are in his possession or under his control.

(2) No specific form is required for the record to be made under subclause (1) of this regulation, but the record shall identify each pump or other means of delivery, and record the meter reading relating to that pump or other means of delivery and the grade or type of the contents of that pump or other means of delivery, and identify each container, tank, or approved installation that has been measured, and record the individual measures and the grade or type of the contents of that container, tank, or approved installation.

(3) Every distributor shall before the 1st day of January 1974, or before such later date as the Controller may by notice in the *Gazette* appoint, deliver to the Controller the records that the distributor is required under subclause (1) of this regulation to make.

(4) Every distributor shall before the 1st day in each month deliver to the Controller—

(a) All allocation certificates surrendered to the distributor in accordance with regulation 5 of these regulations during the previous month; and

(b) A statement in writing of all aviation fuel sold by the distributor during the previous month, including all the information that the distributor is required to record under paragraph (d) of subclause (3) of regulation 5 of these regulations.

(5) Every person commits an offence against these regulations who, being a distributor, fails to comply with any of subclauses (1) to (4) of this regulation.

10. Inspection of distributors' premises—(1) The Controller, or the Deputy Controller, or any Regional Controller, or any person designated in writing for the purposes of this regulation by the Controller may at any time and from time to time inspect the premises of any distributor and ascertain by personal inspection or by gauging by dipstick or by any other appropriate method the quantity and the grade or type of any aviation fuel held on those premises.

(2) Any person authorised by subclause (1) of this regulation to inspect the premises of any distributor may demand production of the records required to be kept by the distributor pursuant to these regulations, together with any allocation certificates that have been surrendered to the distributor, and may take possession of any such records and allocation certificates.

(3) Where any person authorised by subclause (1) of this regulation takes possession of any documents pursuant to subclause (2) of this regulation, he shall leave with the distributor a receipt for those documents and also a record signed by him of all meter readings, measures, quantities, and grades or types of aviation fuel, taken or ascertained by him during the course of his inspection of the premises of the distributor.

- (4) Every person commits an offence who—
- (a) Being a distributor or an officer of a distributor, fails to produce to any person authorised by subclause (1) of this regulation any document demanded by that person under subclause (2) of this regulation; or
 - (b) Obstructs or hinders any person authorised by subclause (1) of this regulation in the course of the exercise or attempted exercise by that person of any power conferred on that person by this regulation.

11. General provisions—(1) The exercise by any person of any powers of disposition over any aviation fuel shall be deemed to be a sale of that aviation fuel, notwithstanding that the aviation fuel may not be within the ownership or possession of that person.

(2) If in any prosecution for any offence against these regulations it is proved or admitted that any aviation fuel was purchased, sold, or supplied, the burden of proving that the purchase, sale, or supply was in accordance with the provisions of these regulations shall be upon the defendant.

(3) Where any body corporate is convicted of an offence against these regulations, every director of the body corporate shall be guilty of the same offence unless he proves that the offence was committed either without his knowledge or without his consent.

12. Exemptions—(1) The Controller may in his discretion, by notice in the *Gazette*, from time to time exempt any person or persons, or class or classes of persons, from all or any of the provisions of these regulations.

(2) Without limiting the generality of subclause (1) of this regulation, the Controller may grant an exemption under that subclause in respect of any particular type or types of aviation fuel.

(3) The Controller may at any time by notice in the *Gazette* revoke any exemption granted by him under subclause (1) of this regulation.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations control the supply and use of aviation fuel in New Zealand.

The Secretary of Transport will hold the position of Controller of Aviation Fuel under the regulations. Subject to the directions of the Minister of Civil Aviation and Meteorological Services, the Controller is given power to regulate the disposal and use of aviation fuel in New Zealand. Provision is also made for the appointment of a Deputy Controller and Regional Controllers.

No person may sell or purchase aviation fuel except in accordance with an allocation certificate issued to the purchaser and authorising him to obtain the fuel. No person may use any aviation fuel for any purpose that is in contravention of the terms of an allocation certificate. The Controller is responsible for the issuing of allocation certificates. (See regulations 5, 7, and 8.)

Distributors are required to make records of the quantities of aviation fuel that they are holding after the commencement of these regulations, and are also required to keep monthly records of transactions (see regulation 9).

The Controller will have power to grant exemptions, by notice in the *Gazette*, from the provisions of the regulations. In particular, he will have power to exempt specific types of aviation fuel from the regulations (see regulation 12).

Regulations 1, 2, 3, 4, 6, and 12 will come into force immediately, but regulations 5, 7, 8, 9, 10, and 11 will come into force on a date or dates to be appointed by the Minister by notice in the *Gazette*.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 20 December 1973.

These regulations are administered in the Ministry of Transport.