



**THE IMPORT CONTROL REGULATIONS 1973,
AMENDMENT NO. 5**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 22nd day of July 1985

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 16A, 16B, 16C, and 20 of the Trade and Industry Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

- 1. Title and commencement
- 2. Interpretation
- 3. Importation of certain goods prohibited
- 4. Grant of licence or permit
- 5. New regulations (relating to transfer, assignment, and use of licences and permits) inserted

- "9B. Transfer and assignment of licence or permit
- "9C. Use of licence or permit by persons other than licensee
- "9D. Subsequent production of licence or permit

Schedule

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Import Control Regulations 1973, Amendment No. 5, and shall be read together with and deemed part of the Import Control Regulations 1973* (hereinafter referred to as the principal regulations).

(2) The order shall come into force on the 5th day of August 1985.

*S.R. 1973/86
Amendment No. 1: S.R. 1977/14
Amendment No. 2: S.R. 1977/289
Amendment No. 3: S.R. 1980/246
Amendment No. 4: S.R. 1985/61

2. Interpretation—Regulation 2 of the principal regulations (as amended by regulation 2 of the Import Control Regulations 1973, Amendment No. 2) is hereby amended by inserting, after the definition of the expression “permit”, the following definition:

“ ‘Port of entry’ has the same meaning as in the Customs Act 1966:”.

3. Importation of certain goods prohibited—The principal regulations are hereby amended by revoking regulation 3, and substituting the following regulation:

“3. (1) The importation into New Zealand of any goods is hereby prohibited unless, before or within 90 days after their arrival,—

“(a) There is produced to the Collector at the port of entry in respect of those goods—

“(i) A written licence granted by the Minister under these regulations; or

“(ii) A written permit granted by the Minister, whether before or after the importation of the goods, under these regulations; or

“(iii) A written licence or permit granted by the Minister that has been transferred or assigned to the importer in accordance with regulation 9B of these regulations; or

“(iv) A written licence or permit granted by the Minister, the use of which has been allowed under regulation 9c of these regulations; or

“(b) Those goods are exempt from the requirement of a licence or permit pursuant to an exemption granted by the Minister under regulation 17 of these regulations.

“(2) Any licence or permit produced to the Collector may be used to enter goods if the licence or permit was valid at the date of importation or at any date thereafter until the expiry of the 90 day period specified in subclause (1) of this regulation.”

4. Grant of licence or permit—The principal regulations are hereby amended by revoking regulation 9, and substituting the following regulation:

“9. (1) The Minister may, in his discretion, grant a licence or permit in respect of all goods included in any application or in respect of part only of such goods, or may decline to grant any such application.

“(2) Notwithstanding anything in regulation 5 of these regulations, the Minister may grant any licence or permit without requiring any application to be made therefor.”

5. New regulations (relating to transfer, assignment, and use of licences and permits) inserted—(1) The principal regulations are hereby amended by inserting, after regulation 9A (as inserted by regulation 3 of the Import Control Regulations 1973, Amendment No. 3), the following regulations:

“9B. **Transfer and assignment of licence or permit**—(1) For the purpose of this regulation and regulation 9c of these regulations, unless the context otherwise requires,—

“ ‘Assignee’ means a person who acquires the use, wholly or in part, of a licence or permit held by a licensee:

“ ‘Licensee’ means a holder of a licence or permit for the time being:

“ ‘Transferee’ means a person who acquires, wholly or in part, a licence or a permit from a licensee.

“(2) Except as provided in this regulation and regulation 9c of these regulations, any licence or permit granted by the Minister shall be for the sole use of the licensee and for the importation of goods by him in his own name.

“(3) Any licensee may transfer, wholly or in part, any licence or permit, the class of which is described in the First Schedule to these regulations, to any transferee.

“(4) Any transfer of a licence or permit pursuant to subclause (3) of this regulation shall be made by notice in writing in a form prescribed by the Secretary and shall be accompanied by the licence or permit, to be transferred, wholly or in part.

“(5) Any notice referred to in subclause (4) of this regulation shall be sent or delivered to the Collector as if the notice were an application in terms of regulation 6 of these regulations.

“(6) No transfer shall be completed or have any effect for the purposes of these regulations until a new licence or permit is issued to the transferee.

“(7) Any licensee may assign, wholly or in part, the use of any licence or permit, the class of which is described in the Second Schedule to these regulations, to any assignee.

“(8) The Minister may, in his discretion and subject to such conditions as he thinks fit, allow the transfer or allow the assignment of the use of any licence or permit (not being a licence or permit to which subclause (3) or subclause (7) of this regulation applies) for the importation of goods by a person other than the licensee.

“(9) The Collector at the port of entry may decline to accept the production of a licence or permit the use of which is purported to have been assigned pursuant to subclause (7) or subclause (8) of this regulation where the Collector is not satisfied that the use of the licence or permit has been duly assigned.

“**9c. Use of licence or permit by persons other than licensee—**Notwithstanding anything in regulation 9B of these regulations, unless a Collector otherwise determines in any particular case,—

“(a) Where goods are purchased on a ‘delivered into store’ basis (that is to say where a licensee places an order with an importer) and a declaration is made by the importer or his authorised agent that—

“(i) The goods have been imported pursuant to an order received from the named licensee; and

“(ii) The goods will be delivered to the licensee,—
the licence or permit of that licensee may be used by the importer:

“(b) Where goods are imported pursuant to an order placed through the local agent of the overseas supplier, and the agent makes a declaration to the effect that—

“(i) He holds the agency from the named overseas supplier; and

“(ii) The goods have been ordered through him,—
the importer may use the agent’s licence or permit:

“(c) Where goods are imported for use in manufacture by the importer (not being the licensee) and the end product is to be sold to the licensee and the importer makes a declaration to the effect that all goods manufactured from the imported goods will be delivered to the licensee, the licence or permit of that licensee may be used by the importer:

“(d) Where goods are imported for delivery to the licensee for use by him in the manufacture of goods on behalf of the importer, and the importer makes a declaration to this effect, the importer may use the manufacturer’s licence or permit.

“9D. **Subsequent production of licence or permit**—Notwithstanding regulation 3 of these regulations, where the Collector has good cause to suspect an importer has wilfully or fraudulently attempted to have goods entered into New Zealand—

“(a) Pursuant to a licence, permit, or exemption where the description of the goods sought to be entered does not fit the description, in terms of the import licensing schedule for the time being applicable, contained in the licence, permit, or exemption; or

“(b) Pursuant to a licence or permit where the value of the goods, calculated on the c.i.f. in New Zealand currency, sought to be entered, exceeds the value of goods specified in the licence or permit, or where the licence or permit has previously been used to enter goods, exceeds the remaining value; or

“(c) Pursuant to a licence or permit where the number or quantity of the goods sought to be entered exceeds the number or quantity specified in the licence or permit, or where the licence or permit has previously been used to enter goods, exceeds the remaining number or quantity; or

“(d) Pursuant to a licence or permit obtained or in any way used without the authority of the licensee; or

“(e) Pursuant to a licence or permit which has been granted subject to a condition, where that condition has not been met; or

“(f) By giving incorrect information for the purpose of satisfying any requirement or approval, being a condition of an exemption by regulation 17 of these regulations; or

“(g) By not disclosing their presence in any consignment of goods; or

“(h) By any combination of the means described in paragraphs (a) to (g) of this regulation,—

the Collector may decline to accept the production of the licence or permit, or any other licence or permit, to enter the goods or any part thereof.”

(2) The principal regulations are hereby amended by adding the First and Second Schedules set out in the Schedule to these regulations.

SCHEDULE

FIRST AND SECOND SCHEDULES TO PRINCIPAL REGULATIONS

“FIRST SCHEDULE

Reg. 9B (3)

Description of classes of licences and permits which may be transferred by the licensee.

<i>Class of Licence or Permit</i>	<i>Type Code (as printed on licence or permit)</i>
Basic Licences	0
Non-Basic Qualifying Licences	1

SECOND SCHEDULE

Reg. 9B (7)

Description of classes of licences and permits the use of which may be assigned by the licensee.

<i>Class of Licence or Permit</i>	<i>Type Code (as printed on licence or permit)</i>
Basic Licences	0
Non-Basic Qualifying Licences	1
Non-Basic Special Licences	2
No-Remittance Licences	3
Special Trade Licences	4
Developing Countries Handicraft Scheme Licences	5
ANZCERT Licence on Demand	13
Global Licence on Demand	18
ANZCERT Residual Exclusive Australian Licences	27''

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, which come into force on 5 August 1985, amend the Import Control Regulations 1973 to provide the manner in which licences and permits may be transferred or assigned to or used by persons other than the licensee.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 25 July 1985.

These regulations are administered in the Department of Trade and Industry.