

**1955/51**

## THE MOTOR SPIRITS DISTRIBUTION REGULATIONS 1955

C. W. M. NORRIE, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 18th day of April 1955

Present:

THE RIGHT HON. K. J. HOLYOAKE PRESIDING IN COUNCIL.

PURSUANT to the Motor Spirits Distribution Act 1953, 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 Motor Spirits Distribution Regulations 1955.

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

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

“The Act” means the Motor Spirits Distribution Act 1953:

“District” means the district of a Local Authority:

“Local authority” means a local authority which has been appointed a licensing authority under section 9 of the Explosive and Dangerous Goods Amendment Act 1920:

“Selling point” means any premises from which motor spirits are sold or proposed to be sold in accordance with a retailer’s licence.”

#### *Procedure*

3. (1) Any person may be represented at any proceedings before the Licensing Authority by counsel, solicitor, or agent.

(2) The Licensing Authority may require any person to transcribe or summarize in writing, either during or after the proceedings, any oral statement made by that person during the proceedings.

#### *Applications to Licensing Authority*

4. Every application for or in respect of a wholesaler’s licence shall be in writing signed by or on behalf of the applicant and shall be in a form approved by the Licensing Authority.

5. (1) The Licensing Authority may appoint any local authority to be its agent in the district of the local authority for the purposes of receiving applications and fees under these regulations.

(2) Any such appointment may at any time be revoked by the Licensing Authority.

(3) Where no local authority has been appointed under this regulation in respect of any locality, the Licensing Authority may appoint the Chief Inspector of Explosives appointed under the Explosive and Dangerous Goods Act 1908 to be its agent for the purpose of receiving applications and fees under these regulations in respect of the locality or localities for which there has been no appointment of a local authority as aforesaid.

(4) Every application for or in respect of a retailer's licence shall be delivered at the office of the local authority for the district where the applicant carries on or proposes to carry on business as a retailer or, where no local authority has been appointed under subclause (1) hereof for the locality where the applicant carries on or proposes to carry on business as a retailer, at the office of the Chief Inspector of Explosives at Wellington.

(5) Every such application shall be in writing signed by or on behalf of the applicant and in a form approved by the Licensing Authority.

(6) Delivery of an application in accordance with this regulation shall be deemed to be delivery to the Secretary of the Licensing Authority.

6. Every application for the transfer of a licence may be made either by the licensee or by the proposed transferee.

7. An application made on behalf of an intended registered company may be considered by the Licensing Authority prior to the incorporation of the company but no licence shall be issued before the company is registered.

8. Notification of any determination of the Licensing Authority shall be posted to the applicant or licensee and to any person who, in the opinion of the Authority, is directly affected by its decision, and may, in addition, be published in the *Gazette*.

#### *Fees*

9. Every application for a wholesaler's licence, the transfer of a wholesaler's licence, or for a variation in the conditions of a wholesaler's licence shall be accompanied by a fee of £10.

10. In respect of every wholesaler's licence there shall be payable by the licensee, as an annual licence fee, the sum of £2 for every million gallons or part of a million gallons of motor spirits sold by the licensee during the year ending on the 31st day of December preceding the date on which the fee is payable.

11. In the month of March in each year there shall be delivered to the office of the Licensing Authority a statement signed by or on behalf of the holder of each wholesaler's licence setting out the number of gallons of motor spirits sold by the licensee in the year ending on the last preceding 31st day of December.

12. The annual licence fee referred to in regulation 10 hereof shall become payable on the 1st day of June 1955 and in subsequent years on the 1st day of April in each year.

13. In respect of every retailer's licence there shall be payable by each licensee an annual licence fee as follows:

Where the licensee is expressly authorized to retail motor spirits through two or more pumps (whether or not other modes are authorized)	.....	.....	.....	.....	.....	£3
In all other cases	.....	.....	.....	.....	.....	£1

14. (1) The annual licence fee referred to in regulation 13 hereof shall become payable on the 1st day of April in each year:

Provided that where a licence has been continued in force by section 12 of the Act, the annual licence fee which, if the Industrial Efficiency (Motor Spirits Retailers) Regulations 1941\* had then been in force, would have been payable on the 1st day of April 1955, shall become payable on the 1st day of June 1955 at the rates hitherto prescribed in the said regulations.

(2) Each such annual licence fee shall be paid at the office of the local authority appointed under regulation 5 hereof for the district where the licensee carries on business as a retailer or, where there has been no such appointment relating to a particular locality where the licensee carries on business as a retailer, at the office of the Chief Inspector of Explosives at Wellington.

15. Subject to the provisions of regulation 26 hereof, every application for a retailer's licence, the transfer of a retailer's licence, or the variation in the conditions of a retailer's licence shall be accompanied by a fee of £2.

16. The annual licence fee referred to in regulation 13 hereof shall be deemed upon the first occasion of becoming due in respect of any particular licence to be for a period commencing on the day on which the licence is granted or on any later day named in the licence for the licence to take effect and ending on the 31st day of March next following; and upon every subsequent occasion of becoming due shall be deemed to be for annual periods computed from the 31st day of March.

17. For any duplicate licence issued in substitution for a licence lost or destroyed there shall be payable a fee of 5s.

18. (1) There shall, from time to time, be payable to each local authority appointed as agent under regulation 5 hereof an amount equal to one-fifth of the total amount of the fees payable in respect of retail licences applied for by or granted to persons intending to carry on or carrying on business as retailers in the district of the local authority.

(2) Any amount payable to a local authority under this regulation may, from time to time, be deducted by the local authority from fees collected by it as agent under these regulations.

19. (1) Every appeal, whether in respect of a wholesaler's or a retailer's licence, shall be in form No. 1 in the Schedule hereto and accompanied by an appeal fee of £5.

(2) No appeal shall be deemed to have been lodged unless it is accompanied by the prescribed fee.

(3) Every appeal shall be addressed to the Secretary of the Licensing Authority at Wellington.

(4) The appeal fee shall be refunded in full if in the opinion of the Appeal Authority the appellant is substantially successful in his appeal and if the Appeal Authority so directs.

20. Every fee which is not paid on the due date thereof may be recovered in any Court of competent jurisdiction as a debt due to the Crown without prejudice to the liability of any person to be proceeded against under these regulations for the non payment thereof.

### *Licensing*

21. (1) A retailer's licence shall authorize the licensee to carry on business at one selling point only:

Provided that a retailer's licence may be issued in respect of two selling points where both selling points are situated in the same district and the licensee is authorized to sell motor spirits through pumps at not more than one of those points.

(2) Where a retailer carries on business outside the district of a local authority, the Licensing Authority may, in its discretion, grant a licence authorizing the licensee to sell motor spirits from two selling points in the same locality:

Provided that any such licence shall not authorize the licensee to sell motor spirits through pumps at more than one selling point.

(3) Nothing in this regulation shall be construed to prevent a person from applying for or being granted more than one retailer's licence in respect of more than one selling point.

22. (1) The Secretary of the Licensing Authority shall keep a copy of every licence granted by the Licensing Authority and shall note thereon any variation, suspension or revocation thereof.

(2) The copies kept as aforesaid shall be the register of licences required to be kept by the Secretary under section 20 of the Act.

23. (1) The holder of any licence which is lawfully revoked, suspended, amended, or which has expired shall, upon request by the Secretary of the Licensing Authority, return the licence to him within three days of the request.

(2) If the licence is amended, a new licence incorporating the amendment shall be issued or the original licence with the amendment endorsed on it and duly signed, shall be returned to the licensee as soon as possible.

24. Where a transfer of a licence is granted, it shall be sufficient evidence of the fact for the purposes of the Act and of any regulations thereunder if the licence is endorsed in form No. 2 in the Schedule hereto, or to the like effect, and the endorsement is signed on behalf of the Licensing Authority by any member thereof or by an officer of the Licensing Authority acting by direction thereof.

25. Where a licence is transferred, the licence shall be deemed to be subject to all conditions prescribed in respect of the licence immediately before the transfer except so far as any such condition is modified or revoked by the Licensing Authority.

26. Any application for a retailer's licence, the transfer of a retailer's licence, or the variation of the terms of a retailer's licence made before the date of the commencement of these regulations shall be deemed to be an application under these regulations and shall be dealt with as though it was lodged with the Licensing Authority:

Provided that the fee payable in respect of the application shall be the appropriate fee hitherto prescribed by the Industrial Efficiency (Motor Spirits Retailers) Regulations 1941\*.

27. All fees received in respect of appeals lodged under the Industrial Efficiency Act 1936 in respect of the retail sale and distribution of motor spirit, and not decided by the Industrial Efficiency Appeal Authority shall be returned to the appellants.

28. (1) There may, with the prior approval of the Minister of Finance, be established one or more imprest accounts (under names to be selected by the Licensing Authority) and money may be transferred from the Motor Spirits Industry Account to an imprest account by cheque signed and countersigned in the manner provided in subsection (2) of section 41 of the Act.

(2) Every imprest account shall be operated on as the Licensing Authority may direct for the purposes set out in subsection (3) of section 41 of the Act by an officer of the Department of Industries and Commerce authorized for that purpose by the Minister of Finance.

(3) No banker or payee or other person shall be concerned to inquire whether the drawing of any cheque on the Motor Spirits Industry Account or on any subsidiary bank account by persons for the time being authorized for the purpose by or under these regulations has been directed by the Licensing Authority under these regulations.

#### *Duties of Wholesalers*

29. (1) The holder of a wholesaler's licence shall not deliver motor spirits to any person for the purpose of resale unless that person is the holder of a retailer's licence in force under the Act.

(2) The holder of a wholesaler's licence shall not deliver motor spirits to any person for the purpose of resale through any pump through which that person is not, in accordance with his licence, authorized to sell motor spirits.

(3) The holder of a retailer's licence shall, at any time on the request of a wholesaler or his authorized agent or servant, produce the licence for inspection.

#### *Offences and Penalties*

30. (1) Every person commits an offence against these regulations who—

(a) Delays or neglects to pay as herein prescribed any fee lawfully payable by that person:

(b) Fails to make any returns or statement required by the Licensing Authority or who makes any such return or statement which is false or misleading in any material particular:

\*S.R. 1941/21.

- (c) Makes a false or misleading statement in any application or representation to the Licensing Authority:
  - (d) In any way fails to comply with any provision of these regulations.
- (2) Any person who commits an offence under these regulations is liable on summary conviction to a fine not exceeding £10 or, in the case of a continuing offence, to a fine not exceeding £5 for every day on which the offence is continued.

SCHEDULE

Reg. 19 (1)]

Form No. 1

*Motor Spirits Distribution Act 1953*

APPEAL TO THE MOTOR SPIRITS LICENSING APPEAL AUTHORITY

To the Motor Spirits Licensing Appeal Authority (forwarded through the Secretary, Motor Spirits Licensing Authority, Wellington).

I HEREBY appeal against the decision of the Motor Spirits Licensing Authority given on the ..... day of .....195.....

The decision was to the following effect—namely:.....

My interest in the subject matter of the appeal is (e.g., applicant for licence, holder of licence in respect of which the decision was given, holder of a licence who is affected by decision) ....., and I pray that the Motor Spirits Appeal Authority provide relief as follows:.....

*Signature:* .....

(To be signed by or on behalf of appellant.)

Full name of appellant: .....

Business address of appellant: .....

Date: .....

NOTE.—This appeal must be accompanied by the prescribed fee of £5.

Reg. 24]

Form No. 2

TRANSFER OF LICENCE

*Section 24 of the Motor Spirits Distribution Act 1953*

This licence is transferred to [Full name of transferee].

Business address of transferee: .....

For the Motor Spirits Licensing Authority:

*Signature:*.....

Date of decision: ...../...../.....

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.]*

Regulations 3 to 20 prescribe the procedure in respect of applications to be heard by the Motor Spirits Licensing Authority and also prescribe fees payable in respect of licences under the Motor Spirits Distribution Act 1953. Regulation 21 prohibits a licence being issued in respect of more than one selling point unless the licensee intends to operate from two selling points in the same locality and not more than one of those points is used for selling motor spirits through pumps.

Regulations 22 to 28 are machinery provisions relating to the administration of its functions by the Licensing Authority.

Regulation 29 imposes a duty on wholesalers to ensure that motor spirits are supplied to retailers in accordance with the terms of their licences.

Regulation 30 prescribes offences and penalties under the regulations.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 April 1955.

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