



**THE MOTOR VEHICLE PARTS PRICE MARGINS
REGULATIONS 1977**

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 12th day of April 1977

Present:

THE RIGHT HON. B. E. TALBOYS PRESIDING 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, commencement, and expiry—(1) These regulations may be cited as the Motor Vehicle Parts Price Margins Regulations 1977.

(2) These regulations shall come into force on the 13th day of April 1977.

(3) These regulations shall continue in force until the close of the 3rd day of July 1977, and shall then expire.

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

“Component part” does not include an accessory:

“Manufacturer” means, in relation to motor vehicle parts, a person who manufactures those parts for sale by him or who manufactures those parts under contract to any other person; but does not include—

(a) A person who has motor vehicle parts manufactured for him under contract and sells those parts without any change in form; or

(b) A packer of motor vehicle parts; or

(c) A person who, in the course of the performance of any automotive engineering or automotive repair service, makes up or modifies any motor vehicle parts; or

(d) A person who manufactures motor vehicle parts and who distributes those parts at wholesale or retail:

“Motor vehicle” has the same meaning as in the Transport Act 1962:

“Motor vehicle part” means a component part (including an electrical part) of—

- (a) A motor vehicle; or
- (b) Any agricultural or horticultural machinery, being ploughs, harrows, hoes, cultivators, seed and fertiliser distributors, harvesting and threshing machinery, and mowers; but does not include a tyre or tube or a secondhand motor vehicle part:

“Price” has the same meaning as in section 2 of the Commerce Act 1975:

“Retailer”, in relation to the sale of a motor vehicle part, includes every person, other than a wholesaler, who sells any such part to any other person, and, in respect of the sale of a motor vehicle part by a wholesaler to any person for any purpose other than resale, includes that wholesaler; but does not include a manufacturer:

“Secretary” means the Secretary of Trade and Industry; and includes any person to whom the Secretary has, under regulation 38 of the Stabilisation of Prices Regulations 1974*, delegated the powers conferred on him under regulation 24 of those regulations:

“Wholesaler”, in relation to the sale of a motor vehicle part, means a person who sells any such part to any person for the purpose of resale; but does not include a manufacturer.

(2) For the purposes of these regulations, any motor vehicle parts sold as a set or as a single or composite article, shall be deemed to be a single motor vehicle part.

(3) For the purposes of these regulations, the price of a motor vehicle part shall be deemed to have been increased if there has been any variation in the terms of sale of that part (in relation to the terms of sale of any other motor vehicle part), being a variation that is disadvantageous to the purchaser of the motor vehicle part, without a corresponding reduction in price.

(4) For the purposes of these regulations, motor vehicle parts shall be deemed to be of the same kind as any other motor vehicle parts if they are in fact of the same nature and quality, or if they are substantially of the same nature and quality.

(5) For the purposes of these regulations, the publication, exhibition, or issue of a price list in respect of any motor vehicle parts, or the furnishing of a quotation for any motor vehicle parts, or the exposure of any motor vehicle parts 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 the charging of a price for those motor vehicle parts.

3. Control of prices—(1) Notwithstanding anything in the Stabilisation of Prices Regulations 1974, the maximum price that may be charged or received by any importer, wholesaler, or retailer for any motor vehicle part shall be the sum of—

- (a) The into-store cost of the motor vehicle part, or, in the case of a motor vehicle part sold on indent and not taken into store, the landed cost of the part in the case of an imported part, or the factory selling price in the case of a part manufactured in New Zealand; and

*S.R. 1974/175 (Reprinted with amendments Nos. 1 to 5: S.R. 1976/290)

(b) In the case of an importer, wholesaler, or retailer in business on the 12th day of April 1977 and selling goods of the same kind, either—

(i) Where the importer, wholesaler, or retailer was pricing the goods on the basis of a unit monetary margin, the unit monetary margin which he was lawfully taking on the 12th day of April 1977 on the into-store cost, landed cost, or factory selling price, as the case may be; or

(ii) Where the importer, wholesaler, or retailer was pricing the goods on the basis of a percentage margin, or combined percentage margin and monetary margin, or was applying an amount in any other form whatsoever, a monetary amount not exceeding the amount represented by the percentage margin, combined margin, or other amount which the importer, wholesaler, or retailer was lawfully taking on the 12th day of April 1977 on the into-store cost, landed cost, or factory selling price:

Provided that where there is a reduction in the into-store cost, landed cost, or factory selling price, as the case may be, the monetary amount expressed as a percentage margin, combined margin, or in any other form shall in no case exceed the margin that could lawfully be taken on the 12th day of April 1977 on the into-store cost, landed cost, or factory selling price, as the case may be; or

- (c) In the case of a motor vehicle part sold by an importer, wholesaler, or retailer who acquires the business of a seller of the same class, the monetary margin which that seller could have taken pursuant to paragraph (b) of this subclause; or
- (d) In the case of an importer, wholesaler, or retailer selling a motor vehicle part of a kind not available in New Zealand on or before the 12th day of April 1977, a monetary margin fixed by the Secretary pursuant to an application in that behalf; or
- (e) In the case of an importer, wholesaler, or retailer (not being a person to whom paragraph (d) of this subclause applies) who was not in business on the 12th day of April 1977, the monetary margin fixed by the Secretary pursuant to an application in that behalf.

(2) Notwithstanding anything in the Stabilisation of Prices Regulations 1974 or in the Price Freeze Regulations (No. 6) 1973* or in any approval given under the last-mentioned regulations, the charge that may be made by any person for a motor vehicle part used by him in the course of performing any services shall not exceed the sum of the into-store cost of the part and a monetary amount calculated, or, as the case may be, fixed, in accordance with paragraphs (b) to (e) of subclause (1) of this regulation as if that supplier of services were a retailer of that motor vehicle part.

4. Motor vehicle parts distributed by the maker—Notwithstanding anything in the Stabilisation of Prices Regulations 1974, where any person manufactures a motor vehicle part and distributes that part at wholesale or retail, the maximum price that he may charge or receive for that part shall not exceed the sum of:

*S.R. 1973/271

- (a) If he prices his part on the basis of the total costs of manufacturing the part, with the addition of a factory profit increased by a distribution margin, those costs of manufacturing and the factory profit for the time being lawful under the Stabilisation of Prices Regulations 1974 increased by a monetary amount not exceeding the amount represented by the distribution margin at wholesale or retail, as the case may be, which that person was lawfully taking on the 12th day of April 1977; or
- (b) If he prices his part on the basis of the total cost of manufacturing the part, without the addition of a factory profit, increased by a distribution margin, those costs of manufacturing for the time being admissible under the Stabilisation of Prices Regulations 1974, increased by a monetary amount not exceeding the amount represented by the distribution margin at wholesale or retail, as the case may be, which that person was lawfully taking on the 12th day of April 1977.

5. Evidence—(1) If in any proceedings for an offence against these regulations it is proved against the defendant that the motor vehicle part to which the proceedings relate is a motor vehicle part of the same kind or class as one or more motor vehicle parts which he admits or is proved to have acquired for a certain price, the motor vehicle part sold by him shall, in the absence of proof to the contrary, be deemed to be identical with the motor vehicle part or parts acquired by him at that price.

(2) In any proceedings for an offence against these regulations in respect of the sale of a motor vehicle part, the production by or on behalf of the informant of a verified copy of any entry in any books or documents 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 the motor vehicle part has been sold, shall, in the absence of proof to the contrary, be sufficient evidence of the sale of the motor vehicle part and of the price charged therefor.

(3) In this section “books or documents” has the same meaning as in section 2 of the Commerce Act 1975.

6. Prohibited transactions—No person shall—

- (a) Enter into any transaction, or make any contract or arrangement, purporting to do, whether presently or at some future time or upon the happening of any event or contingency, anything that contravenes or will contravene the provisions of these regulations; or
- (b) Enter into any transaction or make any contract or arrangement, whether orally or in writing, or do any thing, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding, or preventing the operation of these regulations in any respect.

7. Offences and penalties—Without limiting the provisions of section 18 of the Economic Stabilisation Act 1948, every person commits an offence who, without lawful justification or excuse, acts in contravention of or fails to comply in any respect with any provision of these

regulations, and is liable accordingly on summary conviction to the penalties specified in subsection (3) of the said section 18, namely:

- (a) In the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$400 and (if the offence is a continuing one) to a further fine not exceeding \$10 for every day during which the offence continues, or to both such imprisonment and such fines:
- (b) In the case of a company or other corporation, to a fine not exceeding \$1,000 and (if the offence is a continuous one) to a further fine not exceeding \$40 for every day during which the offence continues.

8. Exemption in respect of auction sales—Nothing in these regulations shall apply in relation to the price attained at a sale of any motor vehicle part by way of auction.

9. Saving—(1) Nothing in these regulations (except as expressly provided in regulations 3 and 4 hereof) shall limit the provisions of the Stabilisation of Prices Regulations 1974, the Price Freeze Regulations (No. 6) 1973, or the Price Freeze Regulations 1976.

(2) Where the Secretary, after any review undertaken by him pursuant to regulation 24 of the Stabilisation of Prices Regulations 1974, exercises any powers under subclause (2) or subclause (3) of that regulation while these regulations continue in force, and, in relation to any trader, fixes any maximum price, margins of profit, mark-up, total admissible margin, or amount of any component item of any pricing formula in respect of motor vehicle parts, that price or price including any of the aforesaid shall be deemed to be the maximum price that may be charged or received by that trader under these regulations.

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 13 April 1977 and expire with the close of 3 July 1977, generally provide that distribution margins for motor vehicle parts shall not exceed the monetary equivalent of the margins prevailing on 12 April 1977. Where the distributor was not in business on that date or where the motor vehicle parts are of a kind not available in New Zealand on 12 April 1977, the distribution margin is not to exceed a monetary margin fixed by the Secretary of Trade and Industry following an application in that behalf.

Manufacturers (other than manufacturers who distribute parts made by them) are not governed by these regulations.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 12 April 1977.

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