

1982/142

THE PRICE FREEZE REGULATIONS 1982

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 22nd day of June 1982

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.

ANALYSIS

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REGULATIONS

1. Title—These regulations may be cited as the Price Freeze Regulations 1982.

2. Commencement and expiry—(1) These regulations shall come into force on the 23rd day of June 1982.

(2) These regulations shall continue in force until the close of the 22nd day of June 1983, and shall then expire.

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

“Appropriate pricing authority”—

(a) In relation to any prices that any person or authority has power to fix, approve or determine under any of the enactments specified in the First Schedule to these regulations, means that person or authority; and

(b) In relation to the prices at which and the margins within which milk to which the Milk Act 1967 applies may be bought and sold, to the rate of allowances to be made in respect of the collection, treatment, storage, distribution, delivery, and sale of such milk, and to the conditions subject to which such milk may be sold, means the person or authority authorised by that Act to fix such prices, margins, allowances, and conditions; and

(c) In relation to the prices of goods and services not within paragraph (a) or paragraph (b) of this definition, means the Secretary:

“Government charges” means—

(a) The prices of any goods or services sold by the Crown:

(b) Any sum of money (not being a tax, fine, or penalty or any other sum of money collected as revenue) charged by the Crown by or pursuant to any Act:

“Secretary” means the Secretary of Trade and Industry; and, in relation to any power conferred on the Secretary by these regulations, includes any person to whom the Secretary of Trade and Industry has, with the authority of the Minister, delegated that power by writing under the hand of the Secretary of Trade and Industry.

(2) Subject to subclause (1) of this regulation, expressions defined in or by subclause (1) or subclause (2) of regulation 2 of the Price Surveillance Regulations 1979* have in these regulations the meanings ascribed to them in or by those subclauses.

(3) For the purpose of these regulations, the price of any goods or services shall be deemed to have been increased in relation to any maximum price under these regulations if there has been any variation in the nature, quality, or quantity of the goods or services, or in the conditions of sale of the goods or services, being a variation that is disadvantageous to the purchaser of the goods or services, without a corresponding reduction in price.

(4) For the purpose of these regulations, the publication or exhibition of a price list in respect of any goods or services, or the furnishing of a quotation for any goods or services, 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, where it occurs after the commencement of these regulations, to constitute an offer to sell those goods or services, as the case may be, at the price so specified or indicated.

4. Control of prices—(1) Except as provided in or pursuant to these regulations, the maximum price at which any goods or services may be sold or offered for sale by any manufacturer, packer, importer, wholesaler, retailer, supplier of services, or other trader shall be—

- (a) In the case of goods, the normal price at which such goods were last sold by him in similar quantities and under similar conditions of sale before the commencement of these regulations or such lower price as is fixed, approved, or determined by the appropriate pricing authority:
- (b) In the case of the performance of services of a kind for which uniform prices are customarily predetermined by the seller (whether or not accompanied by the supply of goods), the normal price at which such services were last sold by him under similar conditions of sale before the commencement of these regulations or such lower price as is fixed, approved, or determined by the appropriate pricing authority:
- (c) In the case of the performance of other services (whether or not accompanied by the supply of goods and without limiting the provisions of paragraph (a) of this subclause in relation to any such goods), the sum of the following items:
 - (i) Labour and overhead costs; and
 - (ii) Any other items normally incorporated in the price of those services—
 each charged at a rate not exceeding the rate normally charged in respect of such services last performed under similar conditions of sale before the commencement of these regulations, or such lower charges as are fixed, approved, or determined by the appropriate pricing authority.

(2) Subject to regulations 5 to 10 and regulations 11 and 15 of these regulations, this regulation shall apply notwithstanding anything to the contrary in any price order, special approval, decision, or any other act of authority fixing, approving, or lawfully determining the prices of any goods or services made, given, or done under any of the enactments specified in the First Schedule hereto.

5. Finished imported goods sold by importers, wholesalers, or retailers—(1) Notwithstanding anything in regulation 4 of these regulations, where any goods imported into New Zealand are resold or offered for resale without any change in form by any importer, wholesaler, or retailer, the maximum price at which those goods are so sold or resold shall be the sum of:

- (a) The into-store cost of the goods, or in the case of goods sold on indent and not taken into store, the landed cost of the goods; and
- (b) Either—
 - (i) The normal unit monetary margin which the seller was last applying before the commencement of these regulations on the into-store cost or landed cost, as the case may be, of such goods; or
 - (ii) Where the seller was pricing such goods on the basis of a percentage margin, a monetary amount not exceeding the amount represented by the normal percentage margin the seller was last applying before the commencement of these regulations, on the into-store cost or landed cost, as the case may be, of such goods:

Provided that where there is a reduction in the into-store cost or the landed cost, as the case may be, the monetary amount expressed as a percentage margin shall in no case exceed the percentage margin the seller was taking immediately before the commencement of these regulations, on the into-store cost or landed cost of such goods.

(2) Nothing in this regulation permits the sale or offer for sale of any goods at a price exceeding that fixed, approved, or determined for the time being by or under any price order made or special approval given under the Commerce Act 1975.

6. Recovery of Government charges by manufacturers, packers, or suppliers of services—Notwithstanding anything in regulation 4 hereof, where any increase in Government charges or a new Government charge takes effect after the commencement of these regulations, any manufacturer, packer, or supplier of services who incurs such an increase or new charge in the manufacture, packing, or supply of his goods or services may increase the maximum price under these regulations of those goods or services to the extent necessary to recover the amount of the increase or new charge incurred by him.

7. Recovery of imported costs by manufacturers, packers, or suppliers of services—(1) Notwithstanding anything in regulation 4 hereof, where any manufacturer, packer, or supplier of services,—

- (a) At any time after the commencement of these regulations, imports goods or purchases imported goods without change in form for use in the manufacture, packing, or supply, as the case may be, of any goods or services; and
 - (b) The price at which he imports those goods or the price at which he purchases those imported goods is higher than the price last paid by him for goods of that kind; and
 - (c) Those imported goods at the higher price are used in the manufacture, packing, or supply of the goods or services,—
- he may increase the maximum price under these regulations of his goods or services to the extent necessary and for such period as is necessary to recover the increased price of the imported goods.

(2) Where any manufacturer, packer, or supplier of goods or services—

- (a) Purchases any goods that have been increased in price in accordance with subclause (1) of this regulation; and
 - (b) Those goods are used in the manufacture, packing or supply, as the case may be, of goods or services sold by him,—
- he may increase the maximum selling price of his goods or services to the extent necessary and for such period as is necessary to recover the increased price to him of the goods that have been so increased in price in accordance with subclause (1) of this regulation.

8. Recovery of duties and taxes under Customs Acts—Nothing in these regulations shall prevent the recovery in the prices of goods or services of the monetary amount of any duties or taxes payable under or pursuant to any of the Customs Acts.

9. Recovery by wholesalers, retailers, or other traders of increased prices—(1) Every manufacturer, packer, or supplier of services who increases the price of any goods or services pursuant to any of the provisions of regulations 6 to 8 of these regulations shall give to every

purchaser of those goods and services sold or supplied by him written advice of the amount by which he has increased the maximum price of those goods or services under these regulations and of the reason therefor.

(2) Any manufacturer, packer, supplier of services, wholesaler, retailer, or other trader who purchases any goods or services which have increased in price to him, in accordance with any of the provisions of regulations 6, 7 (2), and 8 of these regulations, may increase the maximum price of goods or services sold or supplied by him to the extent necessary to recover the increased cost to him.

(3) Where any manufacturer has implemented an increase in the price of any goods before the commencement of these regulations, any wholesaler or retailer who purchases those goods at the increased price may increase his selling price of those goods to the extent necessary to recover the increased price of those goods to him.

10. New traders and new goods and services—(1) No importer, wholesaler, or retailer shall sell any goods if immediately before the commencement of these regulations he was not in business, or was not in the business of selling those goods unless the price at which he sells or offers to sell those goods does not exceed:

- (a) The price ruling, on the date on which he commences the business of selling such goods, for goods of the same kind sold in similar quantities and under similar conditions of sale; or
- (b) The price fixed, approved, or determined by the appropriate pricing authority.

(2) For the purposes of these regulations, the price of any goods or services sold by any person which is determined in accordance with subclause (1) of this regulation shall be deemed to be the maximum price of those goods or services under regulation 4 (1) of these regulations.

(3) Any manufacturer, packer, or supplier of services who intends to sell goods or services that he was not in the business of selling immediately before the commencement of these regulations, shall, not later than 7 days after first selling those goods or services, furnish a return to the appropriate pricing authority.

(4) The return shall specify—

- (a) The price charged; and
- (b) The terms and conditions on which the goods or services were sold.

(5) The price specified in the return, or such lower price as may be fixed, approved, or determined by the appropriate pricing authority, shall be the maximum price for the purposes of regulation 4 (1) of these regulations.

11. Hardship—(1) Where any person establishes to the satisfaction of the appropriate pricing authority that compliance with the provisions of these regulations would result in a serious deterioration in the financial stability and economic viability of his business, the appropriate pricing authority may, in its discretion, exempt that person from compliance, in whole or in part, with any of the provisions of these regulations for such period and subject to such conditions as the appropriate pricing authority thinks fit.

(2) Where the appropriate pricing authority has given any exemption in accordance with subclause (1) of this regulation to the seller of any goods (being goods that are resold without any change in form) and the exemption increases or has the effect of increasing the maximum lawful price that may be charged by that seller to one or more wholesalers or

retailers for those goods, the appropriate pricing authority may authorise, by way of exemption, that wholesaler or retailer or those wholesalers or retailers or any class or description of those wholesalers or retailers to increase their selling prices to the extent necessary to recover the increased cost of the goods to them. An exemption under this subclause may be authorised without any application therefor and shall be for such period and subject to such conditions as the appropriate pricing authority thinks fit.

(3) Any notice of any exemption and of any conditions attaching thereto given under subclause (2) of this regulation shall be deemed to be sufficiently given if it is delivered or posted by or on behalf of the appropriate pricing authority to the person or persons primarily concerned therewith or to any person or organisation deemed by the appropriate pricing authority to represent the person or persons primarily concerned.

(4) Where the appropriate pricing authority has given any exemption in accordance with subclause (1) or subclause (2) of this regulation, no person to whom that exemption applies shall sell any goods or services to which that exemption applies otherwise than in conformity with that exemption.

(5) Nothing in this regulation limits or affects the provisions of section 27 of the Commerce Act 1975.

12. Exemptions—(1) Except as provided in this regulation, nothing in these regulations applies with respect to goods or services specified in the Second Schedule to these regulations.

(2) No person (not being a manufacturer, a packer, or a producer of primary produce) shall include in the price of goods sold or offered for sale by him, being goods specified in clause 2 (other than second-hand goods) or clause 3 or clause 6 of the Second Schedule to these regulations, a percentage or unit monetary margin, on the into-store cost of the goods or, in the case of goods sold on indent and not taken into store, the landed cost or the purchase price, as the case may be, which—

- (a) Exceeds the normal percentage or, as the case may be, the normal unit monetary margin applied by him on such goods last sold before the commencement of these regulations; or
- (b) In the case of a person who was not engaged on the 22nd day of June 1982 in the business of selling such goods, exceeds the normal percentage or unit monetary margin ruling immediately before the commencement of these regulations in the locality in which he carries on business in respect of sales of such goods sold in similar quantities and under similar conditions of sale; and
- (c) In any case, which exceeds the maximum margin fixed, approved, or determined by the appropriate pricing authority.

(3) Nothing in these regulations applies with respect to any professional services, the charges for which are subject to the Professional Charges (Price Freeze) Regulations 1982*.

(4) Nothing in these regulations applies in respect of the rent payable in respect of any land, building, or premises if that rent is subject to the Rent Freeze Regulations 1982†.

(5) Nothing in these regulations applies in respect of financial services within the meaning of the Financial Services Regulations 1982‡.

(6) For the avoidance of doubt it is hereby declared that nothing in these regulations binds the Crown.

13. 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 anything, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, or preventing the operation of these regulations in any respect.

14. Evidence in prosecutions—In any proceedings for an offence that consists of a contravention of or a failure to comply with any provision of these regulations, the production by or on behalf of the informant of a verified copy of any entry in any accounts or records kept by or on behalf of the defendant, or of any invoice, receipt, statement of account, or other document issued by or on behalf of the defendant, and purporting to disclose the prices charged by the defendant for any goods or services, shall, in the absence of proof to the contrary, be sufficient evidence of the prices charged for those goods or services.

15. Restrictions on effective date of authorised price increases—

(1) Except as provided in this regulation, nothing in these regulations restricts or affects any power or duty of any appropriate pricing authority or the Commerce Commission under any of the enactments specified in the First Schedule hereto or any proceeding or appeal before the Commerce Commission or any person under those enactments.

(2) No order made or special approval given under the Commerce Act 1975 and no amendment to or revocation of any such order or special approval and no order made under section 101 of that Act, being an order, special approval, amendment, or revocation which increases, or would have the effect of increasing, the prices of any goods or services, shall have effect in relation to those goods or services until and from a date fixed by the Secretary or the Commission as the case may be, being a date later than the 22nd day of June 1983.

(3) No order or decision made or determination given under any of the enactments specified in the First Schedule hereto (not being the Commerce Act 1975) and no amendment to or revocation of any such order, decision, or determination which increases or has the effect of increasing the prices of any goods or services shall have effect in relation to those goods or services until and from a date fixed by the appropriate pricing authority being a date later than the 22nd day of June 1983.

(4) Nothing in subclauses (2) and (3) of this regulation prevents effect being given, in accordance with any enactment specified in the First Schedule hereto, to any exemption under regulation 11 hereof or to any of the provisions of regulations 5 to 10 of these regulations.

SCHEDULES

FIRST SCHEDULE

Reg. 3 (1)

ENACTMENTS AFFECTED

The Air Services Licensing Act 1951.
 The Commerce Act 1975.
 The Economic Stabilisation (Prices of Automotive Diesel Oil and Fuel Oil) Regulations 1975.
 The International Air Services Licensing Act 1947.
 The Marketing Act 1936.
 The Milk Act 1967.
 The Ministry of Energy Act 1977.
 The Motor Spirits (Regulation of Prices) Act 1933.
 The Natural Gas (Price Restraint) Regulations 1981.
 The Transport Act 1962.

SECOND SCHEDULE

Reg. 12 (1)

EXEMPTED GOODS AND SERVICES

1. Secondhand goods.
2. Goods which have been sold by auction either to the owner for the time being of the goods or to any person through whom he derives title to the goods and goods sold by private treaty in circumstances where the prices charged are normally influenced to a substantial extent by the prices realised for similar goods sold by auction.
3. Fresh meat, and frozen fresh meat, except poultry.
4. Livestock.
5. Goods sold or services performed on the basis of prices submitted by competitive tender.
6. Women's fashion clothing other than standard lines.
7. Goods and services for which the Minister has, by notice published in the *Gazette*, granted an exemption from these regulations for the purpose of preserving essential supplies or services.
8. Goods directly sold for export from New Zealand.
9. Services performed outside New Zealand or within New Zealand for or on behalf of any person (other than a New Zealand citizen) who has no fixed and permanent place of business or abode in New Zealand.

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, subject to certain exemptions, freeze the prices of most goods and services in respect of the period beginning on 23 June 1982 and ending with the close of 22 June 1983.

Provision is made, in certain circumstances for the recovery in prices of increased Government charges, increased costs of imported goods, and increased duties under the Customs Acts.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 June 1982.

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