

1975/252



**THE STABILISATION OF PRICES REGULATIONS 1974,
AMENDMENT NO. 3**

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 28th day of October 1975

Present:

THE HON. R. J. TIZARD 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.

ANALYSIS

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| <ol style="list-style-type: none"> 1. Title and commencement 2. Interpretation 3. Exemptions 4. Increases in price of Category B goods and services on group basis | | <ol style="list-style-type: none"> 5. Prices of goods sold by importers, wholesalers, and retailers (goods of Category B) 6. Review of prices of Category B goods and services 7. Fourth Schedule amended Schedule |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Stabilisation of Prices Regulations 1974, Amendment No. 3, and shall be read together with and deemed part of the Stabilisation of Prices Regulations 1974* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of November 1975.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations (as amended by regulation 2 of the Stabilisation of Prices Regulations 1974, Amendment No. 1) is hereby amended by revoking the definition of the expression “Appropriate pricing authority”, and substituting the following definition:

*S.R. 1974/175
Amendment No. 1: S.R. 1974/321
Amendment No. 2: S.R. 1975/135

“‘Appropriate pricing authority’—

“(a) In relation to any prices or charges that any person or authority has power to fix or approve under the Air Services Licensing Act 1951 or the Transport Act 1962 or the Motor Spirits (Regulation of Prices) Act 1933, means that person or authority:

“(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:”.

(2) The said regulation 2 (1) is hereby further amended by revoking the definitions of the expressions “Category A goods” and “Category A services”, and substituting the following definition:

“‘Category A goods and services’ means—

“(a) Goods or services the prices of which are for the time being subject to control under section 82 of the Commerce Act 1975:

“(b) Goods the prices of which are fixed under the Dairy Board Act 1961:

“(c) Milk as defined in the Milk Act 1967 and any services performed in relation to the treatment or distribution of such milk if, in the case of such milk, its price or if, in the case of such services, the margins and allowances payable in respect of that treatment or distribution, are fixed under that Act:

“(d) Motor spirits as defined in the Motor Spirits (Regulation of Prices) Act 1933:

“(e) Raw tobacco as defined in the Tobacco Growing Industry Act 1974:

“(f) Services the charges for which are or may be fixed under the Transport Act 1962:

“(g) Air transport services the fares or charges for which are fixed under the Air Services Licensing Act 1951:

“(h) Services the charges for which are fixed under the International Air Services Licensing Act 1947;—
and ‘Category A goods’ and ‘Category A services’ have corresponding meanings:”.

(3) The said regulation 2 (1) is hereby further amended—

(a) By revoking the definition of the expression “Price Tribunal”:

(b) By inserting, after the definition of “Category X services”, the following definition:

“‘Commission’ means the Commerce Commission constituted by the Commerce Act 1975:”.

(4) The First Schedule to the principal regulations is hereby consequentially revoked.

(5) The principal regulations are hereby consequentially amended in the manner indicated in the Schedule to these regulations.

(6) Regulation 3 (1) (b) of the Stabilisation of Prices Regulations 1974, Amendment No. 2, is hereby consequentially revoked.

3. Exemptions—(1) Regulation 3 of the principal regulations is hereby amended by inserting, after the words “other than secondhand goods” in each place where they occur in paragraph (a) and paragraph (b) of the proviso to subclause (1), the words “and Category A goods and services”.

(2) Regulation 3 of the principal regulations is hereby further amended by inserting, after subclause (1), the following subclause:

“(1A) Notwithstanding anything in subclause (1) of this regulation, in considering any application for an increase in or its approval of the prices or charges for goods or services of a kind referred to in paragraph (c) or paragraph (d) or paragraph (f) or paragraph (g) of the definition of the expression ‘Category A goods and services’ in regulation 2 hereof, the appropriate pricing authority—

“(a) Shall, in addition to such matters as it is empowered or required to have regard to by any other Act, have regard to the economic stability of New Zealand; and

“(b) Shall, if it thinks fit, take into account the profitability of the trader in relation to shareholders’ funds, or, as the case may be, to the equity capital invested by the proprietor or partners, or to the assets employed in, or to the annual sales of, the whole of the trader’s business (or, if the appropriate pricing authority thinks fit, any particular section thereof), and to the extent to which the trader has the capacity to absorb any part of any increases in costs without the financial stability and viability of his business (or, if the appropriate pricing authority thinks fit, of any particular section thereof) being affected.”

(3) Regulation 3 (2) of the principal regulations is hereby amended by omitting the words “to which paragraph (b) or paragraph (c) of section 23BB (3) of the Trade Practices Act 1958 applies or to the suppliers of such services”, and substituting the words “to which the Second Schedule (other than clause 1 thereof) of the Commerce Act 1975 applies or to the suppliers of such services”.

(4) The Second Schedule to the principal regulations is hereby amended by revoking clause 12, and substituting the following clause:

“12. Services to which clause 1 of the Second Schedule of the Commerce Act 1975 applies.”

(5) The said Second Schedule is hereby further amended by inserting, after clause 12 (as substituted by subclause (4) of this regulation), the following clause:

“12A. Category A goods and services.”

(6) Part VII of the principal regulations and regulation 7 of the *Stabilisation of Prices Regulations 1974, Amendment No. 2*, are hereby consequentially revoked.

4. Increases in price of Category B goods and services on group basis—

(1) The principal regulations are hereby amended by revoking regulation 12, and substituting the following regulation:

“12. (1) Except as provided in this regulation, the prices, or the mark-ups or margins included in the prices or the amount of any component item in any pricing formula used in the calculation of any prices of any Category B goods or services shall not be increased under

these regulations on the basis of all manufacturers, or, as the case may be, all suppliers of services, or importers, wholesalers or retailers or any two or more of them.

“(2) If such an increase is proposed to be made in terms of any provision of Part III or Part IV or Part V or pursuant to an application under regulation 26 of these regulations, the prior consent of the Commission shall be required unless—

“(a) The increase is proposed to be made by two or more persons who are carrying on or propose to carry on a collective pricing practice (with respect to the goods or services in respect of which the increase is proposed to be made) to which section 27 (1) of the Commerce Act 1975 applies; and

“(i) The application for the approval of that practice or proposed practice has been approved or is deemed to have been approved under section 29 of that Act; and

“(ii) The proposed action to make the increase, and the increase, if made or approved in whole or in part, would be in conformity with any conditions attached to the approval of the collective pricing practice or proposed practice by the Commission pursuant to the Commerce Act 1975; or

“(b) The increase is proposed to be made by two or more persons who are carrying on or propose to carry on a collective pricing practice (with respect to the goods or services in respect of which the increase is proposed to be made) to which section 27 (3) of the Commerce Act 1975 applies and the proposed action to make the increase and the increase, if made or approved in whole or in part, is not or would not be in contravention of any order in respect of that practice or of any conditions attaching to any such order made or deemed to have originated under section 22 of that Act and which remains in force.

“(3) The Commission shall refuse its consent to any such increase proposed to be made by persons who are carrying on or propose to carry on a collective pricing practice (with respect to the goods or services in respect of which the increase is proposed to be made) to which section 27 (1) or section 27 (3) of the Commerce Act 1975 applies if—

“(a) The approval of that practice is first required under Part II of the Commerce Act 1975; or

“(b) In the case of a collective pricing practice which may be carried on pursuant to section 30 (1) of that Act, there are not, in the opinion of the Commission exceptional reasons for the increase being consented to in advance of the determination of the application for the approval of the collective pricing practice under section 27 (1) of that Act; or

“(c) In the case of a collective pricing practice to which section 27 (3) of that Act applies, the proposed action to make the increase and the increase, if made or approved in whole or in part is or would be in contravention of any order, with respect to that collective pricing practice or of any conditions attaching to any such order, made or deemed to have originated under section 22 of that Act.

“(4) Notwithstanding subclause (3) of this regulation and without limiting any provision of the Commerce Act 1975, the Chairman of the Commission may direct that any proposal to make an increase by persons carrying on or proposing to carry on a collective pricing practice shall be dealt with by the Commission sitting jointly in the matter of that proposal and the application for the approval of the collective pricing practice under the Commerce Act 1975.

“(5) Where an increase of a kind referred to in subclause (1) of this regulation is proposed to be made and the prior consent of the Commission is not required under subclause (2) of this regulation, written application shall be made by or on behalf of the two or more persons proposing to make the increase and the application shall be dealt with by the Secretary having regard to regulation 10 of these regulations and, as the case may require, the provisions of Part II or Part III or Part IV or regulation 23 or regulation 26 of these regulations.

“(6) Nothing in this regulation shall affect the right of an individual trader to increase the prices of any goods or services of Category B in accordance with Part II or Part III or Part IV or Part V, as the case may be, of these regulations.”

(2) Regulation 25 of the principal regulations is hereby consequentially revoked.

5. Prices of goods sold by importers, wholesalers, and retailers (goods of Category B)—(1) Regulation 23 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) This regulation applies to goods of Category B sold by an importing or other wholesaler or any retailer (every such importing or other wholesaler or retailer being referred to in this regulation as a seller).”

(2) The said regulation 23 is hereby further amended—

(a) By omitting from the heading to that regulation the words “**A and**”:

(b) By omitting from subclause (4) the expression “appropriate pricing authority”, and substituting the word “Commission”.

6. Review of prices of Category B goods and services—(1) Regulation 24 of the principal regulations is hereby amended by omitting from subclause (1) the words “(being prices in relation to which the Price Tribunal is the appropriate pricing authority)”.

(2) The said regulation 24 is hereby further amended by inserting, after subclause (3), the following subclause:

“(3A) The Secretary in reviewing the prices or margins incorporated in any prices or the terms of any pricing formula used in the calculation of prices of any Category B goods or services shall take into account such of the matters specified in regulation 10 hereof relating to the said goods or services as he considers appropriate.”

(3) The said regulation 24 is hereby further amended by revoking subclauses (4) and (5).

(4) The said regulation 24 is hereby further amended by adding, after subclause (7), the following subclause:

“(8) The Secretary may at any time of his own motion inquire into the prices being charged for any goods or services specified in the Second Schedule hereto (other than goods or services specified in clauses 4, 6, 8, 9, 11, 12, 12A, 13, or 14 of that Schedule), and all the provisions of this regulation shall apply as if such goods were Category B goods.”

7. **Fourth Schedule amended**—The Fourth Schedule to the principal regulations is hereby amended by omitting the item beginning with the word “Tea”, and substituting the following item:

“Tea per 500 g 10 cents 5 cents”
(10 cents and 5 cents being respectively the maximum retail and the maximum wholesale mark-ups).

SCHEDULE

Reg. 2 (5)

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL REGULATIONS

Regulation Amended	Amendment
Regulation 5 (3)	By omitting the expression “appropriate pricing authority”, and substituting the word “Commission”.
Regulation 10	By omitting the heading to that regulation (as substituted by regulation 3 (1) (b) of the Stabilisation of Prices Regulations 1974, Amendment No. 2), and substituting the heading “ Admissible costs (goods and services of Category B) ”.
Regulations 14 (1), 15 (2) (b), 17 (3), 19 (3), and 20 (4)	By omitting the expression “appropriate pricing authority” wherever it occurs, and substituting in each case the word “Commission”.
Regulation 22	By omitting the expression “appropriate pricing authority”, and substituting the word “Commission”.
Regulation 24 (6)	By omitting the expression “appropriate pricing authority”, and substituting the word “Commission”.
Regulation 26	By omitting from subclause (1) the words “Price Tribunal” in the first place where they appear, and substituting the word “Commission”. By omitting from subclause (1) the words “in relation to Category B goods or services in respect of which the Price Tribunal is the appropriate pricing authority”.

SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS TO PRINCIPAL REGULATIONS—*continued*

Regulation Amended	Amendment
Regulation 25A (as inserted by regulation 6 of the Stabilisation of Prices Regulations 1974, Amendment No. 1)	By revoking subclause (4), and substituting the following subclause: “(4) In the consideration of any proposed increase in the price of any specified financial service, the provisions of paragraph (a) and paragraph (b) of regulation 3 (1A) hereof shall apply, with all necessary modifications, as if— “(a) The specified financial services were a Category A service to which that subclause relates; and “(b) The Reserve Bank were the appropriate pricing authority.”
Regulation 28	By omitting the expression “appropriate pricing authority” wherever it appears, and substituting in each case the word “Commission”.
Regulation 32	By omitting from subclause (1) the expression “appropriate pricing authority”, and substituting the word “Commission”.
Regulation 33 (1) (c)	By omitting the word “less”, and substituting the word “more”.
Regulation 35	By omitting from the heading the words “ subject goods or services to control or ”. By revoking subclause (1). By omitting from subclause (2) the word “also”.
Regulation 42	By omitting from subclause (1) the expression “appropriate pricing authority” in both places where it appears, and substituting in each case the word “Commission”.

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.

The principal purpose of these regulations is to adjust the provisions of the Stabilisation of Prices Regulations 1974 consequent upon the passing of the Commerce Act 1975 (which like these regulations is to come into force on 1 November 1975).

Regulation 2 substitutes new definitions of the terms "appropriate pricing authority" and "Category A goods and services". The pricing jurisdiction in respect of Category A goods and services subject to price control under the Commerce Act 1975 is now entirely contained in that Act.

References to the Price Tribunal are replaced by references to the Commerce Commission.

Regulation 3. The amendments effected by this regulation are in general related to the general object of removing from the application of the principal regulations items subject to price control under section 82 of the Commerce Act 1975.

Subclause (2) however applies to the appropriate pricing authorities under the Milk Act 1967, the Motor Spirits (Regulation of Prices) Act 1933, and the Air Services Licensing Act 1951 two of the provisions which apply in respect of Category A goods and services under the existing regulations. These provisions require the appropriate pricing authority to have regard to the economic stability of New Zealand and enable that authority to have regard to other matters such as the capacity of the trader to absorb any part of any increases in costs.

Regulation 4 substitutes a new regulation 12 in the principal regulations. The regulation relates to group price applications. The new regulation is based on and similar to section 93 of the Commerce Act 1975.

Regulation 5 excludes Category A goods from the scope of regulation 23 of the principal regulations.

Regulation 6 effects a number of amendments to regulation 24 of the principal regulations (which deals with the power of the Secretary to review prices). The most important of these amendments are those that insert new subclauses (3A) and (8).

The new subclause (3A) authorises the Secretary in conducting a review to take into account such of the matters specified in regulation 10 (which relates to admissible costs) as he considers appropriate.

The new subclause (8) confers on the Secretary the power to inquire into and to fix the prices being charged for specified items, such as fresh meat or frozen meat, otherwise exempt from the regulations.

Regulation 7 effects a metric conversion.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 October 1975.

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