

1958/151

THE TRADE PRACTICES REGULATIONS 1958

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 5th day of November 1958

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Trade Practices Act 1958, 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 Trade Practices Regulations 1958.

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

2. In these regulations "the Act" means the Trade Practices Act 1958 and terms and expressions defined in the Act shall, when used in these regulations, have the meanings so defined.

3. (1) In respect of every agreement subject to registration under Part II of the Act there shall be delivered to the Commissioner—

- (a) Two copies of each document referred to in subclause (3) of this regulation one copy of each of which is signed or identified by the signature of the person furnishing it; and therewith
- (b) A certificate signed by the person furnishing those documents and certifying that there are comprised in those documents the whole of the terms of that agreement and the names of the persons who are parties to it.

(2) Subject to the provisions of subclause (2) of regulation 6 hereof, where any person is a party to numerous agreements which are subject to registration under Part II of the Act and which, except for the identity of another party thereto, or the date thereof, or both, are in the same form, he may, instead of complying with subclause (1) of this regulation in respect of each of those agreements individually, deliver to the Commissioner—

- (a) Two copies of each document referred to in subclause (3) of this regulation setting out the whole of the terms common to those agreements one copy of each of which is signed or identified by the signature of the person furnishing it; and therewith
- (b) Two copies of lists indicating respectively the name of each person who is a party to all the agreements, and the names of persons each of whom is a party to one of them; and

- (c) A certificate signed by the person furnishing those documents certifying that there are comprised in those documents the whole of the terms of those agreements and the names of all the persons who are parties to them.

(3) In so far as the terms of any agreement which is subject to registration as aforesaid are comprised in one or more instruments in writing, each of those instruments shall be deemed to be a document copies of which are required to be delivered to the Commissioner.

In so far as the terms of any such agreement or the names of the persons who are parties to it are not comprised in one or more instruments in writing, a memorandum in writing setting out the whole of those terms and the names of all those persons shall be deemed to be a document copies of which are required to be delivered to the Commissioner.

4. (1) Subject to the provisions of subsection (2) of section 12 of the Act and of regulation three of these regulations, if at any time after an agreement has become subject to registration under Part II of the Act that agreement is varied (whether in respect of the parties or in respect of the terms) or is determined otherwise than by effluxion of time, there shall be delivered to the Commissioner—

- (a) Two copies of each document referred to in subclause (2) of this regulation, one copy of each of which is signed or identified by the signature of the person furnishing it; and therewith
- (b) A certificate, signed by the person furnishing those documents and certifying that there are comprised in those documents complete particulars of the variation or determination, as the case may be.

(2) In so far as any such variation or determination is effected by an instrument in writing, that instrument shall be deemed to be a document copies of which are required to be delivered to the Commissioner.

In so far as any such variation or determination is not effected by an instrument in writing, a memorandum in writing setting out complete particulars thereof shall be deemed to be a document copies of which are required to be delivered to the Commissioner.

(3) Subject to the provisions of subclause (2) of regulation 6 hereof, where particulars of a number of agreements have been delivered to the Commissioner in the manner specified in subclause (2) of regulation 3 of these regulations, and at any time all of those agreements and any other agreements in the same form, particulars of which have been delivered to the Commissioner (other than any such agreements previously determined) are varied in the same way (whether in respect of the persons who are parties to all of them or in respect of the terms) or are determined otherwise than by effluxion of time, any person who is a party to all those agreements may, instead of complying with subclause (1) of this regulation in respect of each of them individually, deliver to the Commissioner,—

- (a) Two copies of each such instrument or memorandum referred to in subclause (2) of this regulation as is required to provide complete particulars of any such variation or determination, one copy of each of which is signed or identified by the signature of the person furnishing it; and therewith

- (b) A list identifying all the agreements so varied or determined; and
- (c) A certificate, signed by the person furnishing those documents and certifying that there are comprised in those documents complete particulars of the variation or determination, as the case may be, and that that list is accurate and complete.

5. Nothing in regulation 3 or 4 of these regulations shall prejudice any obligation under subsection (4) of section 12 of the Act in so far as that obligation is not complied with in the course of complying with those regulations.

6. (1) In any case in which a person delivering documents to the Commissioner in pursuance of these regulations is of opinion that the whole or a part of the particulars in respect of an agreement, being particulars comprised in any such document, ought to be entered or filed in the special section of the register, or ought to be excluded from the provisions of the Act relating to registration, pursuant to subsection (4) of section 13 of the Act, he shall deliver with those documents a notice signed by him setting out his opinion and the reasons therefor and identifying the particulars in question.

(2) Nothing in this regulation shall prejudice any obligation under the Act or these regulations to deliver to the Commissioner any documents:

Provided that where any person is a party to numerous agreements in a common form and he proposes to register the agreements under the provisions of subclause (2) of regulation 3 hereof or a variation of any such agreements under the provisions of subclause (3) of regulation 4 hereof, he may, if he wishes the names of the other parties to be excluded from the provisions of the Act relating to registration, indicate in the notice delivered under subclause (1) of this regulation that he wishes the names of those other parties to be excluded as aforesaid and, in any such case, pending the decision of the Commission on the question of exclusion, the names of those other parties need not be supplied under these regulations.

7. (1) Subject to the provisions of this regulation, the particulars of any agreement required to be entered in the register shall be the documents referred to in subclause (3) of regulation 3 and in subclause (2) of regulation 4 of these regulations which relate to that agreement.

(2) Notwithstanding the provisions of subclause (1) of this regulation where pursuant to subsection (4) of section 13 of the Act an agreement or part of an agreement is excluded from the provisions of Part II of the Act relating to registration, no reference to that agreement or that part shall be made in the register.

(3) There shall, in accordance with subsection (3) of section 13 of the Act be maintained a special section of the register not open to public inspection.

(4) The Commissioner shall provide an index to the register (which shall be part of the register) in such form as he thinks fit.

8. The hours during which the register, other than the special section, shall be open to public inspection shall be from 9.30 a.m. until 4 p.m. on any day except Saturdays and Sundays and such public holidays and the like as may from time to time be notified by notice posted in a conspicuous place in the office of the Commissioner.

9. (1) Where by these regulations any document is required to be delivered to the Commissioner it may be delivered personally or sent by letter to the Commissioner of Trade Practices and Prices, Prudential Building, Lambton Quay, Wellington C. 1, or to P.O. Box 1320, Wellington.

(2) All documents required by these regulations to be delivered to the Commissioner shall be delivered within the appropriate period limited in that behalf by section 12 of the Act.

10. (1) Any document required to be delivered to the Commissioner under these regulations may be delivered by or on behalf of a party to the agreement to which the document relates.

(2) Where a party to any agreement subject to registration under Part II of the Act is a trade association, all persons who are members of the association or are represented thereon by any such member are parties to the agreement.

(3) Where particulars of an agreement are furnished by or on behalf of one party to an agreement, the provisions of section 12 of the Act relating to registration are deemed to be complied with by all the parties to the agreement and the Commissioner, on the application of any party to an agreement subject to registration under Part II of the Act, shall inform that party if particulars of the agreement have already been furnished as aforesaid.

11. Where a certificate is required under these regulations the certificate shall be made on a form supplied by the Commissioner for the purpose.

12. (1) The fee to be paid to the Commissioner in respect of the inspection of the register or any part thereof (other than the special section) by any person on any day shall be 5s.

(2) The fee to be paid to the Commissioner in respect of the supply of each copy of, or extract from, any particulars entered or filed in the register, otherwise than in the special section, certified by the Commissioner to be a true copy or extract shall be—

- (a) Where such a copy or extract does not exceed five folios (each of 72 words) 5s.
- (b) For every folio or part folio after the first five, 1s.

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.

These regulations specify the procedure to be followed in furnishing particulars of agreements subject to registration under Part II of the Trade Practices Act 1958.

Where an agreement is contained in a written instrument, a copy of the instrument is required to be furnished. Where the agreement is wholly or partly oral, a written memorandum of the terms of the agreement made orally is required.

These documents will comprise the register. The documents will be certified by the person furnishing them who may be a party to the agreement or a person representing a party. Special provisions are made where a person enters into several agreements in common form. Provision is also made for registration of variations of agreements.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 November 1958.

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