

**1976/275**

## THE PRICE FREEZE REGULATIONS 1976, AMENDMENT NO. 1

—

DENIS BLUNDELL, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 18th day of October 1976

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.

### REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Price Freeze Regulations 1976, Amendment No. 1, and shall be read together with and deemed part of the Price Freeze Regulations 1976\* (hereinafter referred to as the principal regulations).

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

**2. Interpretation**—(1) Regulation 3 (1) of the principal regulations is hereby amended by omitting from paragraph (c) of the definition of the term appropriate pricing authority the words “, means the Secretary”, and substituting the words “and in relation to the prices of any other goods or services not subject to those regulations and not within paragraph (a) or paragraph (b) of this definition, means the Secretary”.

(2) Regulation 3 of the principal regulations is hereby further amended by revoking subclause (4).

**3. Commerce Act 1975 not affected with respect to authorised increases in prices of finished imported goods**—(1) Regulation 5 of the principal regulations is hereby amended:

- (a) By inserting in paragraph (b) (i), before the word “taking”, and also in paragraph (b) (ii), before the word “lawfully” in both places where it occurs, the word “last”:

(b) By omitting the words "on the 17th day of August 1976" wherever they occur, and substituting in each case the words "on or before the 17th day of August 1976".

(2) Regulation 5 of the principal regulations is hereby further amended by adding, as subclause (2), the following subclause:

"(2) Nothing in this regulation shall permit the charging of a price exceeding that fixed, approved, or authorised for the time being by or under any price order made or special approval given under the Commerce Act 1975."

(3) Regulation 4 (2) of the principal regulations is hereby amended:

(a) By omitting the words "This regulation and regulations 5 and 6 hereof", and substituting the words "Subject to regulations 5, 6, and 10 (5) hereof, this regulation":

(b) By omitting the words "but nothing in this subclause shall prevent any exemption under regulation 7 of these regulations from having effect according to its tenor".

(4) Regulation 10 of the principal regulations is hereby amended by omitting from subclause (1) the words "and in regulation 4 hereof".

(5) Regulation 10 of the principal regulations is hereby further amended by revoking subclause (5), and substituting the following subclause:

"(5) Nothing in subclauses (2) to (4) of this regulation shall prevent effect being given, in accordance with any enactment specified in the First Schedule hereto, to any exemption under regulation 7 hereof or to the provisions of regulation 5 hereof."

**4. Hardship**—(1) Regulation 7 of the principal regulations is hereby amended by omitting the words "this regulation" where they appear after the words "that compliance with the provisions of", and substituting the words "these regulations".

(2) Regulation 7 of the principal regulations is hereby further amended by adding, as subclauses (2) and (3), the following subclauses:

"(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, if it is satisfied that, by reason of the operation of regulation 4 (1) of these regulations, that wholesaler or retailer or the wholesalers or retailers will suffer a reduction in the monetary margin or mark-up included in the resale price of those goods, 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 terms and conditions as the appropriate pricing authority thinks fit.

"(3) Any notice of any exemption and of any terms and 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."

**5. Restrictions on effective date of authorised price increases (Category B goods and services)**—Regulation 10 (6) of the principal regulations is hereby amended:

- (a) By inserting, after the words "lawfully increased", the words "in terms of that regulation":
- (b) By omitting the words "implemented in terms of those regulations", and substituting the words "made in terms of that regulation".

**6. Duties under Customs Acts**—The principal regulations are hereby further amended by revoking regulation 11, and substituting the following regulation:

"11. (1) Subject to subclause (2) of this regulation, nothing in these regulations shall prevent the recovery of the monetary amount of any duties or taxes payable under or pursuant to any of the Customs Acts.

"(2) No manufacturer and no supplier of services shall recover or admit in the prices of goods or services sold or supplied by him the amount of any new or increased customs duties imposed while these regulations are in force and applied to any goods or components used in the manufacture of goods or in the supply of services sold or supplied by him."

**7. Schedules amended**—(1) The First Schedule to the principal regulations is hereby amended by inserting, after the item "The Commerce Act 1975", the item "The Electricity Price Stabilisation Regulations 1972".

(2) The Second Schedule to the principal regulations is hereby amended by adding the following clauses:

"10. Goods directly sold for export from New Zealand.

"11. 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.

"12. Raw tobacco as defined in the Tobacco Growing Industry Act 1974."

**P. G. MILLEN,**  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations amend the Price Freeze Regulations 1976.

Regulation 2 amends the interpretation provisions mainly for the purpose of constituting the Secretary of Trade and Industry as the appropriate pricing

authority in respect of the prices of goods and services (not exempt) not presently subject to any price control enactment.

Regulation 3 makes it clear that regulation 5 of the principal regulations (which relates to the special dispensation afforded to the prices of imported goods) does not permit the charging of prices exceeding those for the time being fixed, approved, or authorised by a price order or special approval under the Commerce Act. Related amendments are made to regulation 4 (2) and regulation 10 to enable effect to be given to regulation 5 in the case of these Category A goods if the increased price satisfies the other criteria under the Commerce Act and any subsequent increase so authorised does not exceed that permitted by regulation 5 of the principal regulations.

Regulation 4 amends the hardship provisions of the regulations to enable exemptions increasing prices given to one seller to be passed on, at the discretion of the appropriate pricing authority, to subsequent wholesalers and retailers if the appropriate pricing authority is satisfied that the monetary margin or mark-up applied by resellers was reduced. Consistent with regulation 6 of the principal regulations the amount able to be passed on is limited (in the absence of an individual hardship application) to the increased cost of the goods arising from the exemption.

Regulation 5 makes it clear, by linking the additional waiting period of 136 days specifically to regulation 11 of the Stabilisation of Prices Regulations 1974 instead of to those regulations as a whole, that the observance of the notification requirements in respect of manufacturers of Category B goods and suppliers of Category B services under those regulations is not a precondition to the commencement of the additional waiting period of 136 days imposed on those traders.

Regulation 6 substitutes a new regulation 11 which relates to the recovery of customs duties, excise tax, and sales tax. The new regulation enables the recovery of all these duties and taxes but provides that new or increased customs duties may not be recovered by manufacturers and suppliers of services.

Regulation 7 amends the Schedules to the principal regulations.

Subclause (1) has the effect of constituting the Minister of Finance as the appropriate pricing authority for the purposes of the principal regulations in respect of electricity supplied by any Electrical Supply Authority.

Subclause (2) exempts exported goods and services and raw tobacco leaf from the scope of the principal regulations.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 October 1976.

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