



THE PRICE FREEZE REGULATIONS 1982, AMENDMENT NO. 7

RONALD DAVISON
Administrator of the Government

ORDER IN COUNCIL

At the Government House at Wellington this 13th day of June 1983

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL
PURSUANT to the Economic Stabilisation Act 1948, His Excellency the
Administrator of the Government, acting by and with the advice and consent
of the Executive Council, hereby makes the following regulations.

ANALYSIS

- 1. Title
2. Commencement and expiry
3. Commencement and expiry of principal regulations
4. Interpretation
5. Control of prices
6. Recovery of Government charges by manufacturers or suppliers of services
7. Recovery of imported costs by manufacturers or suppliers of services
8. Recovery of increased prices
9. New traders and new goods and services
10. Hardship
11. Alternative requirements
12. Exemptions
13. Restrictions on contracts
14. Excess price may be forfeited and refunded to purchaser
15. Restrictions on effective date of authorised price increases
16. Exempted goods and services
17. Consequential amendments to other regulations
Schedule

REGULATIONS

1. Title—These regulations may be cited as the Price Freeze Regulations 1982, Amendment No. 7, and shall be read together with and deemed part of the Price Freeze Regulations 1982* (hereinafter referred to as the principal regulations).

*S.R. 1982/142
Amendment No. 1: S.R. 1982/162
Amendment No. 2: S.R. 1982/188
Amendment No. 3: S.R. 1982/195
Amendment No. 4: S.R. 1982/243
Amendment No. 5: S.R. 1983/12
Amendment No. 6: S.R. 1983/72

2. Commencement and expiry—(1) These regulations shall come into force on the 14th day of June 1983.

(2) These regulations shall continue in force until the close of the 29th day of February 1984, and shall then expire.

3. Commencement and expiry of principal regulations—Regulation 2 (2) of the principal regulations is hereby amended by omitting the words “22nd day of June 1983”, and substituting the words “29th day of February 1984”.

4. Interpretation—(1) Regulation 3 (1) of the principal regulations (as amended by regulation 3 of the Price Freeze Regulations 1982, Amendment No. 3) is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Manufacturer’, in relation to any goods, includes a producer or packer of the goods:

“‘Retailer’, in relation to any goods,—

“(a) Includes every person who sells the goods to any other person for any purpose other than resale or resupply; but

“(b) Does not include—

“(i) A manufacturer of the goods; or

“(ii) A supplier of services that are accompanied by the supply of the goods:

“‘Trader’—

“(a) Means any person who is engaged in any—

“(i) Trade; or

“(ii) Business; or

“(iii) Industry; or

“(iv) Profession; or

“(v) Occupation; or

“(vi) Activity of commerce; or

“(vii) Undertaking relating to the supply or acquisition of goods or services, or to the disposition or acquisition of any land or interest in land; and

“(b) Includes every manufacturer, importer, wholesaler, retailer, or other seller or supplier of goods or services:

“‘Wholesaler’, in relation to any goods,—

“(a) Means a person who sells the goods to any other person for the purposes of resale or resupply; but

“(b) Does not include a manufacturer of the goods.”

(2) Regulation 3 (3) of the principal regulations is hereby amended by omitting the word “reduction”, and substituting the word “adjustment”.

(3) Regulation 3 of the principal regulations is hereby further amended by adding the following subclause:

“(5) For the purpose of these regulations, goods or services shall be deemed to be of the same kind as any other goods or services if—

“(a) They are in fact of the same nature and quality; or

“(b) They are substantially of the same nature and quality.”

5. Control of prices—(1) The principal regulations are hereby amended by revoking regulation 4 (as amended by regulation 4 of the Price Freeze Regulations 1982, Amendment No. 3), and substituting the following regulation:

“4. (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 trader shall be,—

“(a) In the case of goods, the normal price at which goods of the same kind 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 services of the same kind 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 services of the same kind 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, 11A, 11B, 12, 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 before, on, or after the 22nd day of June 1982.

“(3) Subject to regulations 5 to 10 and regulations 11, 11A, 11B, 12, and 15 of these regulations, this regulation shall apply notwithstanding anything in any provision in any agreement of sale and purchase of any goods or services entered into before the date of the commencement of these regulations, under which an amount, in addition to the price at which goods or services were sold before that date, is to be paid to the seller or supplier upon any increase in cost to him or upon the happening of any other event or contingency.”

(2) Regulation 4 of the Price Freeze Regulations 1982, Amendment No. 3 is hereby consequentially revoked.

6. Recovery of Government charges by manufacturers or suppliers of services—Regulation 6 of the principal regulations is hereby amended by omitting the words “packer” and “packing”.

7. Recovery of imported costs by manufacturers or suppliers of services—(1) The principal regulations are hereby amended by revoking regulation 7 (as amended by regulation 5 of the Price Freeze Regulations 1982, Amendment No. 3), and substituting the following regulation:

“7. Notwithstanding anything in regulation 4 of these regulations, where any manufacturer 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 or supply of any goods or services; and
 - “(b) The landed cost to him of those goods or the price at which he purchases those imported goods is higher than the last landed cost incurred by him in respect of goods of that kind or the price last paid by him for goods of that kind; and
 - “(c) Those imported goods at the higher landed cost or the higher price are used in the manufacture or supply of his goods or services,—
- he may increase the maximum price under these regulations of those goods or services to the extent necessary and for such period as is necessary to recover the increased landed cost or the increased price of the imported goods.”

(2) Regulation 5 of the Price Freeze Regulations 1982, Amendment No. 3 is hereby consequentially revoked.

8. Recovery of increased prices—Regulation 9 of the principal regulations (as substituted by regulation 7 of the Price Freeze Regulations 1982, Amendment No. 3, and as amended by regulation 3 of the Price Freeze Regulations 1982, Amendment No. 4 and regulation 3 of the Price Freeze Regulations 1982, Amendment No. 6) is hereby amended—

- (a) By omitting from subclause (1) the words “manufacturer, packer, supplier of services, wholesaler, retailer, or other”; and
- (b) By omitting from subclause (2) the word “packer”.

9. New traders and new goods and services—The principal regulations are hereby amended by revoking regulation 10, and substituting the following regulation:

“10. (1) No 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 goods of the same kind, unless the price at which he sells or offers to sell the goods does not exceed:

- “(a) The price ruling, on the date on which he commences the business of selling the 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 or supplier of services who sells goods or services (being goods or services that are not of the same kind as the goods or services that he was 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.”

10. Hardship—Regulation 11 of the principal regulations (as amended by regulation 8 of the Price Freeze Regulations 1982, Amendment No. 3) is hereby amended by revoking subclause (2), and substituting the following subclause:

“(2) Where the appropriate pricing authority has given any exemption in accordance with subclause (1) of this regulation to any trader and the exemption increases or has the effect of increasing the maximum lawful price that may be charged by that trader to one or more traders, the appropriate pricing authority may authorise, by way of exemption, that trader, or any class or description of traders to increase his or their selling prices to the extent necessary to recover the increased cost of the goods or services to him or 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.”

11. Alternative requirements—Regulation 11B of the principal regulations (as inserted by regulation 10 of the Price Freeze Regulations 1982, Amendment No. 3) is hereby amended by adding the following subclauses:

“(6) Where the Secretary has granted any dispensation, in accordance with subclause (1) of this regulation, to any person, and the dispensation increases or has the effect of increasing the maximum lawful price that may be charged by that person to any other person, the Secretary may authorise, by way of exemption, that person, or any class or description of person to increase his or their selling prices to the extent necessary to recover the increased cost of the goods or services to him or 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 Secretary thinks fit.

“(7) For the purposes of this regulation, the provisions of regulations 11 (3), 11 (4), and 11 (5) of these regulations shall, so far as applicable, and subject to any necessary modifications, apply, with respect to the power conferred by subclause (6) of this regulation, in the same manner as they apply to the exercise of the powers conferred by regulation 11 (1) of these regulations.”

12. Exemptions—(1) Regulation 12 (2) of the principal regulations is hereby amended by omitting the words “No person (not being a manufacturer, a packer, or a producer of primary produce)”, and substituting the words “No wholesaler or retailer”.

(2) Regulation 12 of the principal regulations is hereby amended by inserting, after subclause (5), the following subclauses:

“(5A) Nothing in these regulations applies in respect of—

“(a) The price that may be paid by the New Zealand Dairy Board to producers for milk sold to the Board by or on behalf of producers; or

“(b) The price that may be paid by the New Zealand Apple and Pear Marketing Board to growers of apples or pears or both for apples or pears sold to the Board by any such growers.

“(5B) Notwithstanding anything in these regulations, the price charged by any member of the Actors’ Variety and Performing Artists’ Equity of New Zealand Industrial Union of Workers or any member of the New Zealand Musicians’ Industrial Union of Workers for services performed by that member for the Broadcasting Corporation of New Zealand may exceed the maximum price applicable under regulation 4 (1) of these regulations if the price charged is in accordance with the traditional relationship that has existed between the price for those services and the wages paid to actors or musicians and contained in the awards and collective agreements prescribing their conditions of employment.”

13. Restrictions on contracts—The principal regulations are hereby amended by inserting, after regulation 13, the following regulation:

“13A. (1) These regulations shall have effect notwithstanding anything in any contract entered into before or after the commencement of these regulations.

“(2) Where the price paid by a buyer for any goods or services exceeds the maximum price lawfully chargeable under these regulations in respect of those goods or services, the amount of the excess may, except to the extent of any order made under regulation 14A (3) of these regulations, be recovered by or on behalf of the buyer as a debt due to the buyer from the seller.”

14. Excess price may be forfeited and refunded to purchaser—The principal regulations are hereby amended by inserting, after regulation 14, the following regulation:

“14A. (1) On the conviction of any person of an offence against these regulations, being an offence involving the sale of any goods or services at a price that exceeds the maximum price lawfully chargeable under these regulations in respect of those goods or services, the convicting Court, on application by or on behalf of the Secretary, may make an order for payment by the defendant of an amount not exceeding the difference (to be ascertained and specified by the Court), between the price actually charged by the defendant and the maximum price lawfully chargeable under these regulations.

“(2) All money payable pursuant to an order made under this regulation shall be recoverable, in accordance with the Summary Proceedings Act 1957, in the same manner as fines and costs are recoverable.

“(3) Where in any such case the convicting Court is satisfied that the whole or any part of the price has been paid to the defendant by any other person, the Court, if having regard to all the circumstances of the case it deems it just and equitable so to do, may make an order authorising the payment to that other person of such amount as the Court thinks fit, not exceeding the amount by which the price paid exceeded the maximum price lawfully chargeable under these regulations.

“(4) An order made under subclause (3) of this regulation shall be sufficient authority to the Registrar of the Court to pay the amount so authorised:

“Provided that in no case shall the total amounts so paid exceed the amount recovered from the defendant under this regulation.”

15. Restrictions on effective date of authorised price increases—

(1) Regulation 15 of the principal regulations is hereby amended by omitting from subclause (2), and also from subclause (3), the words “22nd day of June 1983”, and substituting in each case the words “29th day of February 1984”.

(2) Regulation 15 (4) of the principal regulations is hereby amended by omitting the expression "regulation 11", and substituting the expression "regulations 11, 11A, and 11B".

16. Exempted goods and services—The Second Schedule to the principal regulations is hereby amended by adding, after clause 14 (as added by regulation 4 of the Price Freeze Regulations 1982, Amendment No. 6) the following clause:

"15. Services, the entitlement to which has been sold by auction."

17. Consequential amendments to other regulations—The regulations specified in the Schedule to these regulations are hereby amended in the manner indicated in that Schedule.

Reg. 17

SCHEDULE

REGULATIONS AMENDED

Title of Regulations	Amendment
The Price Freeze Regulations 1982, Amendment No. 1 (S.R. 1982/162)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".
The Price Freeze Regulations 1982, Amendment No. 2 (S.R. 1982/188)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".
The Price Freeze Regulations 1982, Amendment No. 3 (S.R. 1982/195)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".
The Price Freeze Regulations 1982, Amendment No. 4 (S.R. 1982/243)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".
The Price Freeze Regulations 1982, Amendment No. 5 (S.R. 1983/12)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".
The Price Freeze Regulations 1982, Amendment No. 6 (S.R. 1983/72)	By omitting from regulation 2 (2) the words "22nd day of June 1983", and substituting the words "29th day of February 1984".

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 continue the Price Freeze Regulations 1982 in force until the close of 29 February 1984. Those regulations would otherwise have expired with the close of 22 June 1983.

Significant amendments to the price freeze include—

(a) Exemptions in respect of—

(i) The price that may be paid by the New Zealand Dairy Board to producers for milk sold to the Board by or on behalf of producers:

(ii) The price that may be paid by the New Zealand Apple and Pear Marketing Board to growers of apples or pears or both for apples or pears sold to the Board by any such growers:

(iii) The prices that may be charged by actors and musicians who perform services for the Broadcasting Corporation of New Zealand:

(iv) Services, the entitlement to which has been sold by auction:

(b) Provision for the buyer to recover the excess where he pays a price for any goods or services which exceeds the maximum price lawfully chargeable under the regulations:

(c) Provision, where a Court enters a conviction, for the Court to make an order for the payment of the whole or part of the excess. Money payable pursuant to any such order is to be recoverable under the Summary Proceedings Act 1957 in the same manner as a fine.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 14 June 1983.

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