

1020

1984/193



THE PRICE FREEZE REGULATIONS 1984

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 18th day of July 1984

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

- | | |
|--|---|
| 1. Title | 14. Alternative requirements |
| 2. Commencement and expiry | 15. Records of price increases |
| 3. Interpretation | 16. Statement to be given to customers |
| 4. Control of prices | 17. Exemptions |
| 5. Approval given on or before 17 July 1984 | 18. Exemption in respect of certain residential accommodation for the aged, infirm, and needy or for victims of domestic violence |
| 6. Finished imported goods sold by importers, wholesalers, or retailers | 19. Prohibited transactions |
| 7. Recovery of imported costs by manufacturers or suppliers of services | 20. Restrictions on contracts |
| 8. Notification of increases in prices | 21. Evidence in prosecutions |
| 9. Recovery of import tendering premiums | 22. Excess price may be forfeited and refunded to purchaser |
| 10. Recovery by wholesalers, retailers, or other traders of increased prices | 23. Restrictions on effective date of authorised price increases |
| 11. New traders and new goods and services | 24. Revocations |
| 12. Hardship | Schedules |
| 13. Increased wage costs arising from new wage instruments, etc. | |
-

REGULATIONS

1. Title—These regulations may be cited as the Price Freeze Regulations 1984.

2. Commencement and expiry—(1) These regulations shall come into force on the 19th day of July 1984.

(2) These regulations shall continue in force until the close of the 18th day of October 1984, 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:

“Books or documents” includes accounts, balance sheets, vouchers, records, contracts, and other instruments:

“Component item” means any item (including overheads and labour) customarily incorporated in the calculation of the price for the supply of services; but does not include the cost of any goods accompanying the supply of those services;

“Instrument” has the meaning given to it by regulation 3 of the Wage Freeze Regulations 1982*:

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

“Price”, in relation to the sale of goods or to the performance of services, includes every valuable consideration whatsoever, whether direct or indirect; and includes any consideration which in effect relates to the sale of the goods or to the performance of the services, although ostensibly relating to any other matter or thing:

“Remuneration” has the meaning given to it by regulation 2 of the Wage Adjustment Regulations 1974†:

“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

*S.R. 1982/141 (Reprinted with Amendments Nos. 1 to 28: S.R. 1984/156)
Amendment No. 29: S.R. 1984/172

†S.R. 1974/143 (Reprinted with Amendments Nos. 1 to 16: S.R. 1978/226)
Amendment No. 17: (Revoked by S.R. 1982/161)
Amendment No. 18: S.R. 1980/192
Amendment No. 19: S.R. 1980/216
Amendment No. 20: S.R. 1982/161
Amendment No. 21: S.R. 1982/235
Amendment No. 22: S.R. 1983/144
Amendment No. 23: S.R. 1983/191
Amendment No. 24: S.R. 1984/4
Amendment No. 25: S.R. 1984/116

(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:

“Sale” includes barter and every other disposition for valuable consideration:

“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:

“Services”—

(a) Has the same meaning as the expression “performance of services” in section 2 of the Commerce Act 1975; and

(b) Includes the provision of residential accommodation, whether with or without meals, in any building or part of a building (not being a self-contained or substantially self-contained flat or apartment or a unit within the meaning of the Unit Titles Act 1972 or a separate dwellinghouse), including the provision of accommodation in—

(i) Any premises in respect of which a licence under the Sale of Liquor Act 1962 is in force or is deemed to be in force pursuant to the Licensing Trusts Act 1949 or the Masterton Licensing Trust Act 1947 or the Invercargill Licensing Trust Act 1950; or

(ii) Any private hotel, motel, guest-house, rooming-house, residential club, hostel, residential institution, boarding school, hospital, or home for aged persons; and

(c) Includes the provision of a camp or caravan site in a motor camp and a vehicle parking site:

“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) Subject to subclause (1) of this regulation, in these regulations, unless the context otherwise requires, expressions defined in the Commerce Act 1975 have the meanings so defined.

(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 adjustment 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.

(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.

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 trader shall be,—

- (a) In the case of goods (whether or not accompanied by the performance of services), the normal price at which goods of the same kind were last supplied by that trader in similar quantities and under similar conditions of supply before the 18th day of July 1984;
- (b) In the case of the performance of services (whether or not accompanied by the supply of goods), the normal price at which services of the same kind were last supplied by that trader under similar conditions of supply before the 18th day of July 1984;
- (c) In the case of any component item customarily incorporated in the price of services supplied by that trader, the price last used before the 18th day of July 1984 in respect of that item in calculating the price for the supply of those services.

(2) Subject to regulations 5, 6, 7, 9, 12, 13, 14, 17, and 23 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 17th day of July 1984.

(3) Subject to regulations 5, 6, 7, 9, 12, 13, 14, 17, and 23 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.

5. Approval given on or before 17 July 1984—(1) Notwithstanding anything in regulation 4 of these regulations, the provisions of this regulation shall apply where, on or before the 17th day of July 1984,—

- (a) An increase in the price of any goods sold or services performed by any trader has been approved or authorised by an appropriate pricing authority; or
- (b) An increase in the price of any goods sold or services performed by any trader is—

(i) Approved or authorised under regulation 7 or regulation 10 or regulation 11 or regulation 12 of the Economic Stabilisation (Prices) Regulations 1983*; or

(ii) In the case of a trader to whom regulation 6 of these regulations applies, is lawful in terms of regulation 7 of the Economic Stabilisation (Prices) Regulations 1983*.

(2) Where no part of any increase to which subclause (1) of this regulation applies has been implemented at the commencement of these regulations, the trader may implement that increase.

6. 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 in New Zealand currency of the goods to the importer, wholesaler, or retailer, or, in the case of goods sold on indent and not taken into store, the landed cost in New Zealand currency of the goods to the importer, wholesaler, or retailer; 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.

7. Recovery of imported costs by manufacturers or suppliers of services—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 in New Zealand currency of those goods to him 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.

8. Notification of increases in prices—(1) This regulation applies to—

- (a) Any manufacturer of goods who, in his capacity as a manufacturer of goods, recorded in his immediately preceding financial year, a turnover of \$10,000,000 or more; and
- (b) Any supplier of services, who, in his capacity as a supplier of services, recorded in his immediately preceding financial year, a turnover of \$3,000,000 or more; and
- (c) Any importer who, in his capacity as an importer, recorded in his immediately preceding financial year, a turnover of \$6,500,000 or more; and
- (d) Any trader or any class of trader to whom this regulation is declared to apply by the Minister from time to time by notice in the *Gazette*.

(2) In the period beginning on the 19th day of July 1984 and ending with the close of the 18th day of October 1984, any manufacturer of goods or supplier of services or importer or trader to whom this regulation applies shall, within 7 days after the day on which he increases, under regulation 6 or regulation 7 of these regulations, the price of any goods or services supplied by him, furnish to the Secretary a return showing—

- (a) The price of the goods or services before the increase was effected; and
- (b) The increased price of the goods or services; and
- (c) The basis on which the increased price has been determined (including, where relevant, the rate of exchange used to convert the currency of any other country into New Zealand currency); and
- (d) Such further particulars in relation to that manufacturer's or supplier's or importer's or trader's prices as the Secretary may require.

(3) Every return furnished under subclause (2) of this regulation shall be in the form prescribed by the Secretary from time to time for the purpose, and shall be verified by statutory declaration or otherwise as the Secretary may require.

9. Recovery of import tendering premiums—Nothing in these regulations prevents the recovery in the prices of any goods or services of any amount payable to the Crown, in relation to the goods sold, or supplied together with any services, under the import tendering scheme established by the Minister under regulation 9A of the Import Control Regulations 1973*.

10. Recovery by wholesalers, retailers, or other traders of increased prices—(1) Any trader who purchases any goods or services which have increased in price to him, in accordance with any of the provisions of regulations 5, 6, 7, and 9 of these regulations or of this subclause, may increase the maximum price of goods or services sold or supplied by him to the extent necessary to recover the increased price to him.

*S.R. 1973/86

Amendment No. 1: S.R. 1977/14

Amendment No. 2: S.R. 1977/289

Amendment No. 3: S.R. 1980/246

(2) Every manufacturer, wholesaler, or supplier of services who increases the price of any goods or services pursuant to any of the provisions of regulations 5, 6, 7, and 9 of these regulations or of subclause (1) of this regulation 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.

(3) Where any manufacturer has implemented an increase in the price of any goods before the 18th day of July 1984 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.

11. New traders and new goods and services—(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.

12. Hardship—(1) Where any trader 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 trader 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 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.

(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) The appropriate pricing authority may at any time amend or revoke any exemption given under subclause (1) of this regulation or amend or revoke any of the conditions subject to which any such exemption has been given.

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

13. Increased wage costs arising from new wage instruments, etc.—

(1) In this regulation, the term “new wage instrument” means—

- (a) An instrument to which regulation 6 (1) or regulation 6 (2) or regulation 6A (1) of the Wage Freeze Regulations 1982* applies;
- (b) An instrument or amendment to an instrument made at any time on or after the 1st day of June 1982 which lawfully—
 - (i) Increases any rate of remuneration; or
 - (ii) Provides for payment of any remuneration that is additional to remuneration lawfully payable on that date,—

whether or not the instrument or amendment, or any provision of the instrument or amendment relating to the rate of remuneration, comes into force before that date.

(2) Where the appropriate pricing authority is satisfied that—

- (a) The cost of remuneration represents a very high proportion of the costs of—
 - (i) The business or of any activity of the business of any person; or
 - (ii) The businesses or of any activities of the businesses of any persons or any class or classes of persons; and
- (b) The increased or additional cost of remuneration lawfully payable under any new wage instrument should, by reason of the effect of that cost on the financial stability and economic viability of that business or those businesses, be recovered, in whole or in part, in the prices of goods or services of that person or those persons or that class or those classes of persons,—

the appropriate pricing authority may, for the purpose of authorising the recovery of the whole or any part of that increased or additional cost of remuneration, exercise any of the powers conferred by regulation 12 (1) of these regulations in relation to that person or those persons or that class or those classes of persons.

(3) All the provisions of regulation 12 of these regulations, including subclause (2) of that regulation, shall, so far as applicable and subject to

any necessary modifications, apply with respect to the exercise of the power conferred by subclause (2) of this regulation in the same manner as they apply to the exercise of the powers conferred by regulation 12 (1) of these regulations.

14. Alternative requirements—(1) Subject to subclause (2) of this regulation, where the Secretary is satisfied that compliance by any trader or any class or classes of traders with any of the provisions of these regulations is likely to result in—

- (a) A serious anomaly in any of the selling prices of the goods or services of any person or of any class or classes of persons; or
- (b) Substantial practical difficulties for the conduct of the business, or of any activity of the business, of any trader or of any class or classes of traders; or
- (c) Serious instability in or a serious impediment to the supply of any goods or services,—

the Secretary may grant a dispensation from compliance with that provision.

(2) In no case shall the Secretary grant a dispensation from any provision that controls the prices of goods or services unless an alternative requirement is established (not inconsistent with the provisions of regulation 4 of these regulations) under which the prices of the goods or services, to which the dispensation relates, are controlled.

(3) The Secretary may grant a dispensation, in whole or in part, and any dispensation may be limited in duration for such period and subject to such conditions as the Secretary in his discretion thinks fit.

(4) Where the Secretary has granted any dispensation in accordance with this regulation, no trader to whom that dispensation applies shall sell any goods or services to which that dispensation relates otherwise than in conformity with that dispensation.

(5) The Secretary may at any time amend or revoke any dispensation granted under subclause (1) of this regulation or amend or revoke any of the conditions subject to which any such dispensation has been granted.

(6) Where the Secretary has granted any dispensation, in accordance with subclause (1) of this regulation, to any trader, and the dispensation increases or has the effect of increasing the maximum lawful price that may be charged by that trader to any other person, the Secretary 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 Secretary thinks fit.

(7) For the purposes of this regulation, the provisions of regulations 12 (3), 12 (4), and 12 (6) 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 power conferred by regulation 12 (1) of these regulations.

15. Records of price increases—(1) Every trader shall complete and retain a record of—

- (a) The date on which he implemented any price or any increase in his prices or any increase in any component item of his price; and
- (b) The amount of that price or price increase; and
- (c) The basis on which he calculated the price or price increase.

(2) Nothing in this regulation limits the provisions of section 124 of the Commerce Act 1975.

16. Statement to be given to customers—(1) Subject to subclause (2) of this regulation, every supplier of services for which the price is not a standard charge fixed before the offer to contract is made shall, in addition to complying with regulation 15 (1) these regulations,—

- (a) Complete and retain a record of the time worked in supplying such services; and
- (b) Deliver to the person to whom he supplies any such services a statement in writing setting out the amount of his price and showing separately in itemised form—
 - (i) The amount charged for materials supplied;
 - (ii) The amount charged for labour and overhead and specifying the number of hours or part thereof worked;
 - (iii) Any other component items forming part of the price of the services.

(2) Nothing in subclause (1) (b) of this regulation shall apply in any case where the supplier has quoted or tendered a price before the supply of the services, and the price does not exceed the amount quoted or tendered.

17. 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 wholesaler or retailer 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 4 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 18th day of July 1984 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 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 1984*.

(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 Limitations Regulations 1984†.

(5) Nothing in these regulations applies in respect of financial services within the meaning of the Financial Services Regulations 1984‡.

*S.R. 1984/194

†S.R. 1984/17

Amendment No. 1: S.R. 1984/92

‡S.R. 1984/192

- (6) Nothing in these regulations applies in respect of—
- (a) The lending of money; or
 - (b) The granting of credit; or
 - (c) The depositing of money with any person; or
 - (d) The buying, whether as principal or agent, of any credit instrument from any person; or
 - (e) The discounting, whether as principal or agent, of any credit instrument; or
 - (f) The provision of credit under any hire purchase agreement or under any contract under which a person bails or agrees to bail goods (whether or not with an option to purchase).
- (7) 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.
- (8) Nothing in these regulations applies to any rates or levies imposed by any local authority or public body.
- (9) Nothing in these regulations applies to membership subscriptions, fees, or levies charged by social, cultural, or recreational clubs or sporting bodies.
- (10) Nothing in these regulations applies to periodical subscriptions, fees, or levies, which are paid to any trade union or professional union or association and which are directly related to the employment of any person.
- (11) For the avoidance of doubt, it is hereby declared that nothing in these regulations binds the Crown.

18. Exemption in respect of certain residential accommodation for the aged, infirm, and needy or for victims of domestic violence—The Minister may, by notice in the *Gazette*, exempt services or a class of services specified in the notice from these regulations if he is satisfied that the services or class of services—

- (a) Are provided—
 - (i) By a religious or charitable organisation; or
 - (ii) By a body corporate (not being a company within the meaning of the Companies Act 1955); and
- (b) Consist of the provision of residential accommodation for the aged, infirm, or needy or for victims of domestic violence.

19. 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.

20. Restrictions on contracts—(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 22 (3) of these regulations, be recovered by or on behalf of the buyer as a debt due to the buyer from the seller.

21. 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.

22. Excess price may be forfeited and refunded to purchaser—(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.

23. 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 18th day of October 1984.

(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 18th day of October 1984.

(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 regulations 12, 13, and 14 hereof or to any of the provisions of regulations 5, 6, 7, and 9 of these regulations.

24. Revocations—The following regulations are hereby revoked, namely—

- (a) The Economic Stabilisation (Prices) Regulations 1983*;
- (b) The Economic Stabilisation (Prices) Regulations 1983, Amendment No. 1†;
- (c) The Economic Stabilisation (Prices) Regulations 1983, Amendment No. 2‡.

*S.R. 1983/296

†S.R. 1984/13

‡S.R. 1984/152

SCHEDULES

FIRST SCHEDULE

Reg. 3 (1)

ENACTMENTS AFFECTED

The Air Services Licensing Act 1983.
 The Commerce Act 1975.
 The Marketing Act 1936.
 The Milk Act 1967.
 The Ministry of Energy Act 1977.
 The Natural Gas (Price Restraint) Regulations 1981*.
 The Transport Act 1962.

SECOND SCHEDULE

Reg. 17 (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. Services, the entitlement to which has been sold by auction.
4. Fresh meat, and frozen fresh meat, except poultry.
5. Livestock.
6. Goods sold or services performed on the basis of prices submitted by competitive tender.
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.
10. Carriage by air of passengers or goods or both—
 - (a) Between New Zealand and any place outside New Zealand; or
 - (b) Between places outside New Zealand.
11. Carriage by sea—
 - (a) Of goods between New Zealand and any place outside New Zealand;
or
 - (b) Of passengers between New Zealand and any place outside New Zealand; or
 - (c) Of goods or passengers or both between places outside New Zealand.
12. Gold—
 - (a) In the form of bullion; or
 - (b) In the form of coinage.
13. Silver—
 - (a) In the form of bullion; or
 - (b) In the form of coinage.
14. Servicing of mares by stallions.

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 19 July 1984 and ending with the close of 18 October 1984.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 July 1984.

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