

1979/82

THE PRICE SURVEILLANCE REGULATIONS 1979

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 4th day of April 1979

Present:

THE RIGHT HON. R. D. MULDOON 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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| 1. Title and commencement | 7. Traders to keep records of price increases |
| 2. Interpretation | 8. Statement to be given to customers |
| 3. Certain manufacturers of goods and suppliers of services to notify price increases | 9. Secretary may investigate price increases |
| 4. Importers, wholesalers, and retailers to make returns | 10. Action following investigation of price increases |
| 5. Annual accounts and half-yearly performance reports to be furnished to Secretary | 11. Price surveys and public information |
| 6. Professional bodies to notify increases in scales of charges for professional services | 12. Secretary may determine alternative method of compliance |
| | 13. Offences Schedules |

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Price Surveillance Regulations 1979.

(2) These regulations shall come into force on the 6th day of April 1979.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Manufacturer” includes a packer of goods:

“Minister” means the Minister of Trade and Industry:

“New goods or services” means—

(a) Any goods or services of a kind not available in New Zealand before the commencement of these regulations; or

(b) In relation to goods or services sold by any trader, any goods or services of a kind not previously sold by that trader:

“Professional body” means any society, institute, or other body whose membership is comprised wholly or principally of persons who render professional services:

“Professional services” means services of a kind described in the First Schedule to these regulations:

“Secretary” means the Secretary of Trade and Industry:

“Services” has the same meaning as the expression “performance of services” in section 2 of the Commerce Act 1975; and 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—

(a) 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

(b) Any private hotel, motel, guest house, rooming house, residential club, hostel, residential institution, boarding school, hospital, or home for aged persons;—
and also includes the provision of a camp or caravan site in a motor camp and a vehicle parking site; but does not include financial services as defined in the Financial Services Regulations 1979* or any services the charges for which may be fixed under the Tenancy Act 1955 or under the Rent Appeal Act 1973:

“Trader” means any person who is engaged in the business of selling goods or services; and includes every manufacturer, importer, wholesaler, or retailer or other seller or supplier of goods or services:

“Turnover” means the total gross receipts of all kinds in respect of the sale or supply of goods or services:

“Wholesaler”, in relation to the sale of any goods, means a person who sells such goods to any person for the purpose of resale; but does not include a manufacturer who sells goods manufactured by him.

(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 purposes of these regulations, goods or services shall be deemed to be of the same kind as any other goods or services if they are in fact of the same nature and quality, or if they are substantially of the same nature and quality.

(4) For the purpose of these regulations the price of any goods or services shall be deemed to have been increased if—

- (a) The goods or services are offered or exposed for sale at an increased price; or
- (b) There has been any variation in the nature, quality, or quantity of the goods or services, or in the terms of sale of the goods or services, being a variation that is disadvantageous to the purchaser of the goods or services, without a corresponding reduction in price.

3. Certain manufacturers of goods and suppliers of services to notify price increases—(1) Subject to subclause (3) of this regulation, every manufacturer of goods or supplier of services who fixes a price for any new goods or services or who increases the price of any goods or services manufactured or supplied by him, shall, if, in the case of a manufacturer of goods, his business as such a manufacturer in his immediately preceding financial year recorded a turnover of \$7,500,000 or more, or if, in the case of a supplier of services, his business as such a supplier in his immediate preceding financial year recorded a turnover of \$2,000,000 or more, furnish to the Secretary not later than 7 days after the implementation of any such price or price increase, a return showing—

- (a) The prices, or the increased prices, of the goods or services; and
- (b) The terms and conditions on which he sells the goods or services; and
- (c) The basis on which the price or price increase has been determined; and
- (d) Such further particulars in relation to that manufacturer's or supplier's prices, conditions of sale, or performance, as the Secretary may require.

(2) Every return furnished under subclause (1) of this regulation shall be in the form prescribed by the Secretary for the purpose, and shall be verified by statutory declaration or otherwise as the Secretary may require.

(3) Nothing in subclause (1) of this regulation shall apply in respect of the prices or the increased prices of goods or services of a kind described in the Second Schedule to these regulations.

4. Importers, wholesalers, and retailers to make returns—(1) Every trader who, in his business and in his capacity as an importer, wholesaler, or retailer or in any two or more of those capacities, has recorded in his immediately preceding financial year, a turnover of \$5,000,000 or more, shall furnish to the Secretary not later than 60 days after the end of each half of his financial year, a return showing—

- (a) His turnover and gross profit for the half-year; and
- (b) Such further particulars in relation to any goods sold, or offered for sale, prices charged, or terms and conditions imposed by the importer, wholesaler, or retailer, as the Secretary may require.

(2) Every return furnished under subclause (1) of this regulation shall be in the form prescribed by the Secretary for that purpose, and shall be verified by statutory declaration or otherwise as the Secretary may require.

5. Annual accounts and half-yearly performance reports to be furnished to Secretary—(1) Subclause (2) of this regulation applies in respect of the following persons, namely:

- (a) Every manufacturer of goods (other than such a manufacturer who manufactures only goods of a kind described in the Second Schedule to these regulations) whose business as a manufacturer of goods in his immediately preceding financial year recorded a turnover of \$7,500,000 or more:
- (b) Every supplier of services (other than a supplier only of services of a kind specified in the Second Schedule to these regulations) whose business as a supplier of services in his immediately preceding financial year recorded a turnover of \$2,000,000 or more.

(2) Every person to whom this subclause applies shall,—

- (a) As soon as practicable after the end of his financial year, but not later than 90 days thereafter, furnish to the Secretary a fully detailed copy of his financial accounts for that year, and shall supply such other information in relation to those accounts as the Secretary may require; and
- (b) As soon as practicable after the end of each half of his financial year, but not later than 60 days thereafter, furnish to the Secretary a performance report in the form prescribed for the purpose by the Secretary indicating, in respect of the half year of the manufacturer or supplier,—
 - (i) His turnover; and
 - (ii) His costs; and
 - (iii) His pre-tax profit; and
 - (iv) Such other information or particulars as the Secretary may require.

(3) Every trader to whom regulation 4 of these regulations applies shall, as soon as practicable after the end of his financial year, but not later than 90 days thereafter, furnish to the Secretary a fully detailed copy of his financial accounts for that year, and shall supply such other information in relation to those accounts as the Secretary may require.

(4) Nothing in this regulation shall require the furnishing to the Secretary of accounts or performance reports by—

- (a) Primary schools or secondary schools;
- (b) Social or recreational clubs or sporting bodies;
- (c) Charitable or religious institutions;
- (d) Trade or professional unions or associations;
- (e) Local authorities or public bodies.

6. Professional bodies to notify increases in scales of charges for professional services—Every professional body which, after the commencement of these regulations,—

- (a) Issues a scale of prices for professional services provided by its members or any of them; or
- (b) Issues a variation of any scale of prices for professional services provided by its members or any of them; or
- (c) Makes or varies any rule or recommendation which affects the prices at which its members or any of them provide their professional services; or

(d) Gives any advice to any of its members with respect to the prices at which those members may or should provide their professional services,—
 (whether or not the members or any of them are obliged by the rules of the body or by law to observe any such scale, variation, rule, recommendation, or advice), shall forward to the Secretary, within 7 days after the date on which it first issues the scale or variation or makes or varies the rule or recommendation or first gives that advice, a copy of that scale, variation, rule, recommendation, or advice.

7. Traders to keep records of price increases—(1) Every trader shall complete and retain a record of—

- (a) The date on which he implements any price or any increase in his prices or charge out rate; and
 - (b) The amount of that price or price increase; and
 - (c) The basis on which he calculated that price or price increase.
- (2) Nothing in this section shall limit the provisions of section 124 of the Commerce Act 1975.

8. Statement to be given to customers—(1) Subject to subclauses (2) and (3) of this regulation, every supplier of services (other than professional 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 7 (1) of these regulations,—

- (a) Complete and retain in a form approved by the Secretary 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 items forming part of the price of the services.
- (2) The Secretary may, by notice in the *Gazette*, exempt any specified supplier or class of suppliers of any specified service from compliance with subclause (1) of this regulation.

(3) 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.

9. Secretary may investigate price increases—(1) The Secretary may investigate on complaint or his own motion, and shall investigate any matter referred to him by the Minister relating to, any price for new goods or services or any price increase or price increases for any goods or services.

(2) In the course of any investigation conducted under subclause (1) of this regulation, the Secretary shall confer with any trader whose prices are being investigated, and, if he is of the opinion that the price, or price increase, or price increases, are excessive, he may invite the trader to reduce the amount of any price or to make refunds to purchasers, or to take such other steps as the Secretary considers appropriate.

10. Action following investigation of price increases—(1) Where after investigation pursuant to regulation 9 or regulation 11 of these regulations, the Secretary is of the opinion on such evidence as he considers sufficient, and in relation to such considerations as he thinks relevant, that a price for new goods or services or a price increase or price increases for any goods or services are excessive, then, the Secretary may report his opinion to the Minister with one or more of the following recommendations:

- (a) That any goods or services be made subject to price control pursuant to section 82 of the Commerce Act 1975:
- (b) That any goods or services be made the subject of a public inquiry pursuant to section 104 of the Commerce Act 1975:
- (c) Such other recommendation as the Secretary thinks fit.

(2) Nothing in this regulation shall limit the provisions of sections 54 to 55_B of the Commerce Act 1975 (which relate to profiteering in goods or services).

11. Price surveys and public information—The Secretary may, on his own motion or at the request of the Minister, from time to time, conduct surveys of the prices being charged by any traders for any goods or services, and may—

- (a) Report to the Minister under regulation 10 of these regulations:
- (b) Publish from time to time, in such a manner as he thinks fit, such details of surveys conducted hereunder as he thinks fit.

12. Secretary may determine alternative method of compliance—On the application by any trader or traders, or on his own motion, the Secretary may, where he considers that it would be impracticable or unreasonable for any trader or traders, or any class or classes of traders to comply with any provision of these regulations, dispense with that provision in relation to the trader or traders or class or classes of traders, and determine an alternative basis upon which the prices of the trader or traders or class or classes of traders shall be kept under surveillance, or as the case may be, upon which the trader or traders or class or classes of traders shall furnish accounts and performance reports.

13. Offences—Without limiting the provisions of section 18 of the Economic Stabilisation Act 1948, every person commits an offence against these regulations, and is liable accordingly to the penalty prescribed by subsection (3) of that section, who wilfully contravenes any provision of regulation 3 (1), regulation 4 (1), regulation 5 (2), regulation 5 (3), regulation 6, regulation 7 (1), or regulation 8 (1) of these regulations.

SCHEDULES

FIRST SCHEDULE

Regs. 2 and 6

PROFESSIONAL SERVICES

1. Services (whether as accountants, auditors, consultants, advocates, investigators, or advisers) performed by chartered accountants or chartered accountants in public practice within the meaning of the New Zealand Society of Accountants Act 1958.

2. Services of actuaries in their capacity as such.

3. Services of architects registered under the Architects Act 1963 in their capacity as such.

4. Services performed by chiropodists registered under the Medical and Dental Auxiliaries Act 1966 in their capacity as such.

5. Chiropractic services, being services performed by chiropractors registered under the Chiropractors Act 1960 in their capacity as such.

6. Dental services, being services performed by registered dentists within the meaning of the Dental Act 1963 in their capacity as such.

7. Services performed by dietitians registered under the Dietitians Act 1950 in their capacity as such.

8. Services of insurance brokers in their capacity as such.

9. Legal services, being services performed by practitioners within the meaning of the Law Practitioners Act 1955 in their capacity as such.

10. Medical services, being the provision of medical or surgical advice or attendance and the performance of surgical operations, performed by registered medical practitioners within the meaning of the Medical Practitioners Act 1968.

11. Services performed by medical technologists registered under the Medical and Dental Auxiliaries Act 1966 in their capacity as such.

12. Nursing services, being services performed by nurses registered under the Nurses Act 1971 in their capacity as such.

13. Services performed by occupational therapists registered under the Occupational Therapy Act 1949 in their capacity as such.

14. Services of optometrists or dispensing opticians registered under the Optometrists and Dispensing Opticians Act 1976 in their capacity as such and of optical dispensers in their capacity as such.

15. Services of professional engineers or technologists, being persons practising as consultants in the field of—

(a) Civil engineering:

(b) Mechanical, aeronautical, marine, electrical, or electronic engineering:

(c) Mining, quarrying, soil analysis, or other forms of mineralogy or geology:

(d) Agronomy, forestry, livestock rearing, or ecology:

(e) Metallurgy, chemistry, biochemistry, or physics:

(f) Any other form of engineering or technology of a kind similar to those referred to in the preceding paragraphs of this clause.

16. Services of patent attorneys in their capacity as such.

17. Services of physiotherapists registered under the Physiotherapy Act 1949 in their capacity as such.

FIRST SCHEDULE—*continued*

18. Services performed by radiographers in their capacity as such.
19. Services performed by real estate agents within the meaning of the Real Estate Agents Act 1976 in their capacity as such.
20. Services of sharebrokers licensed under the Sharebrokers Act 1908 in their capacity as such.
21. Services of ship brokers in their capacity as such.
22. Services of surveyors of land (including surveyors registered under the Surveyors Act 1966), quantity surveyors, surveyors of buildings or other structures, and surveyors of ships, in their capacity as such.
23. Services performed by valuers of land or of chattels in their capacity as such.
24. Veterinary services performed by veterinary surgeons registered under the Veterinary Surgeons Act 1956 in their capacity as such.

 SECOND SCHEDULE

Regs. 3 (3) and 5 (1)

GOODS AND SERVICES IN RESPECT OF WHICH PRICE NOTIFICATION IS NOT
REQUIRED UNDER REGULATION 3 OF THESE REGULATIONS

1. Goods or services subject to price control under section 82 of the Commerce Act 1975.
2. Goods or services in respect of which prices are for the time being fixed or approved by an appropriate pricing authority.
3. Goods or services destined for export from New Zealand.
4. Goods custom-built to a purchaser's requirement.
5. Goods or services made or supplied pursuant to a written tender accepted by the purchaser.
6. Goods the manufacture or supply of which by any named manufacturer, or other person, is designated for the time being by the Secretary and the Secretary to the Treasury, by notice in the *Gazette*, as a high priority activity.
7. Fees charged by primary schools or secondary schools.
8. Membership fees charged by social or recreational clubs or sporting bodies.
9. 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.
10. Goods or services the prices or charges for which are charged or received by any local authority or public body, other than prices or charges for goods or services that are of a kind that are customarily sold or supplied in competition with other persons in the district or area under the jurisdiction of the local authority or public body.
11. Professional services.

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, which come into force on the 6th day of April 1979, introduce a price surveillance scheme consequent on the phasing out of the Stabilisation of Prices Regulations 1974. The effect of these regulations may be summarised as follows:

- (a) Each manufacturer of goods whose annual turnover is \$7.5 million or more and each supplier of services whose annual turnover is \$2 million or more, are required to notify the Secretary of Trade and Industry of price increases and of prices for new goods or services, within 7 days of those prices or increases being put into effect. Annual accounts and half-yearly performance reports are also to be furnished to the Secretary.
- (b) Each importer, wholesaler, or retailer whose annual turnover is \$5 million or more is required to provide the Secretary with half-yearly returns. Annual accounts are also to be furnished to the Secretary.
- (c) Professional bodies are required to notify increases in their scales of charges to the Secretary within 7 days.
- (d) All traders are to keep records of their prices, increased prices, and the basis on which price increases are calculated.
- (e) Suppliers of certain services (which were described as Group 2 services under the Stabilisation of Prices Regulations 1974) are required to supply itemised accounts to their customers.
- (f) The Secretary is empowered to investigate the prices of goods and services or price increases, and may confer with the trader and invite him to reduce his price or to make refunds to purchasers.
- (g) Where the Secretary considers that a price is excessive, he may report to the Minister of Trade and Industry.
- (h) The Minister has the power, under section 82 of the Commerce Act 1975, to make any goods or services subject to price control. He also has the power under section 104 of that Act to require the Commerce Commission to conduct a public inquiry into any matter related to the prices of goods or services.
- (i) The Secretary has a general power to determine alternative methods of compliance with the requirements of these regulations where compliance with the prescribed requirements is impracticable or unreasonable.
- (j) Certain goods and services are exempted from the price notification provisions and certain persons are exempt from the requirement to make returns and keep records.

The penalties for offences against these regulations are prescribed by section 18 (3) of the Economic Stabilisation Act 1948.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 5 April 1979.

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