

*Order No. 2 (1967) of the Trade Practices and Prices Commission*

IN the matter of the Trade Practices Act 1958 and in the matter of a report by the Examiner of Trade Practices and Prices into the terms on which Kempthorne Prosser and Co.'s New Zealand Drug Company Ltd. has agreed to sell phosphatic fertiliser to the F.I.C. Group Ltd., the Marlborough Farm Trading Society Ltd., the Ashburton Trading Society Ltd., and the North Canterbury Rural Co-operative Society Ltd.

WHEREAS the Trade Practices and Prices Commission has received from the Examiner of Trade Practices and Prices (hereinafter referred to as "the Examiner") a report, pursuant to section 17 of the said Act, in which it was alleged that Kempthorne Prosser and Co.'s New Zealand Drug Co. Ltd. (hereinafter referred to as "the company") refused to accept orders from the F.I.C. Group Ltd., the Marlborough Farm Trading Society Ltd., the Ashburton Trading Society Ltd., and the North Canterbury Rural Co-operative Society Ltd. (hereinafter referred to as "the societies"), under the terms applicable to incorporated farmers' organisations, as defined in clause 4 (1) (e) of the price order relating to phosphatic fertilisers (hereinafter referred to as "the price order");

And whereas in the said report of the Examiner he stated that he had conducted conciliation proceedings with the company under the provisions of section 16A of the said Act, and that the company, while denying the Examiner's allegations that its action was a trade practice which was contrary to the public interest, nevertheless had agreed to accept orders from the societies under the terms specified in the said price order on specific terms to obviate the risk of financial loss to the company in trading with the societies, and that the societies had agreed to the specific terms as to payment for supplies;

And whereas the Examiner has recommended that the Commission should make an order under section 19 of the said Act, to direct the company to discontinue the practice of refusing to accept orders from the societies, provided the said societies conform to the procedure agreed upon by the company and the societies relating to the payment by the societies prior to delivery of the fertiliser by the company;

And whereas the Commission is satisfied that all persons who would be bound by any order made by the Commission pursuant to the recommendation by the said Examiner in the said report, have concurred with the recommendation made by the said Examiner in the said report and the Commission has dispensed with an inquiry under section 18 of the said Act;

And whereas the Commission decided that an order should be made under the said Act to give effect to the said recommendation;

Now, therefore, the Trade Practices and Prices Commission hereby orders and directs Kempthorne Prosser and Co.'s New Zealand Drug Co. Ltd., to accept orders for phosphatic fertiliser from the F.I.C. Group Ltd., the Marlborough Farm Trading Society Ltd., the Ashburton Trading Society Ltd., and the North Canterbury Rural Co-operative Society Ltd., provided that the said societies conform with the conditions for payment of supplies as set out hereunder, or on such other terms as may be agreed upon from time to time between the company and any of the said societies.

**TERMS FOR PAYMENT**

In this order the word "price" means:

- (a) In the case of phosphatic fertiliser, subject to the provisions of a price order, the price stated in the price order; or
- (b) In the case of fertilisers which are subject to the approval of the Department of Industries and Commerce, under authority delegated by the Price Tribunal, the price so approved by the department in accordance with the formula approved by the Price Tribunal and duly notified to the department as directed by the Price Tribunal.

Orders will be placed by each society with the company.

Not less than five working days before delivery of the fertiliser is made or required the society concerned shall deposit into a bank account nominated by the company an amount equal to the value of the order calculated at user prices.

The fertiliser will be delivered or dispatched to the member of the society concerned.

The company will debit the account of the society with the value of the fertiliser delivered calculated at the prices fixed by the price order as applicable to farmers' organisations as defined in clause 4 (1) (e) of the current price order, or as in (b) above.

At the end of the month in which deliveries of fertiliser are made the company will credit the society's ledger account with the total amounts lodged by the society in the nominated bank account relating to those deliveries.

The company will pay the society the balance standing to its credit in its ledger account at the company as soon as practicable in the month following the month in which deliveries are made.

Dated at Wellington this 9th day of August 1967.

The seal of the Trade Practices and Prices Commission was affixed hereto in the presence of:

[L.S.] B. S. BARRY, Chairman.  
F. F. SIMMONS, Member.  
J. R. DENCH, Member.

(I. and C.)

*Order No. 3 (1967) of the Trade Practices and Prices Commission*

IN the matter of the Trade Practices Act 1958 and in the matter of a report by the Examiner of Trade Practices and Prices into the terms on which The Dominion Fertiliser Co. Ltd. has agreed to sell phosphatic fertiliser to the Otago Rural Trading Society Ltd. and the Rural Co-operative Society Ltd.

WHEREAS the Trade Practices and Prices Commission has received from the Examiner of Trade Practices and Prices (hereinafter referred to as "the Examiner") a report, pursuant to section 17 of the said Act, in which it was alleged that the Dominion Fertiliser Co. Ltd. (hereinafter referred to as "the company"), refused to accept orders from the Otago Rural Trading Society Ltd. and the Rural Co-operative Society Ltd. (hereinafter referred to as "the societies"), under the terms applicable to incorporated farmers' organisations, as defined in clause 4 (1) (e) of the price order relating to phosphatic fertilisers (hereinafter referred to as "the price order");

And whereas in the said report of the Examiner he stated that he had conducted conciliation proceedings with the company under the provisions of section 16A of the said Act, and that the company, while denying the Examiner's allegations that its action was a trade practice which was contrary to the public interest, nevertheless had agreed to accept orders from the societies under the terms specified in the said price order on specific terms to obviate the risk of financial loss to the company in trading with the societies, and that the company had been operating such agreement voluntarily since 1 June 1966; and that the societies had agreed to the specific terms as to payment for supplies;

And whereas the Examiner has recommended that the Commission should make an order under section 19 of the said Act, to direct the company to discontinue the practice of refusing to accept orders from the societies, provided the said societies conform to the procedure agreed upon by the company and the societies relating to the payment by the societies prior to delivery of the fertiliser by the company;

And whereas the Commission is satisfied that all persons who would be bound by any order made by the Commission pursuant to the recommendation by the said Examiner in the said report, have concurred with the recommendation made by the said Examiner in the said report and the Commission has dispensed with an inquiry under section 18 of the said Act;

And whereas the Commission decided that an order should be made under the said Act to give effect to the said recommendation;

Now, therefore, the Trade Practices and Prices Commission hereby orders and directs The Dominion Fertiliser Co. Ltd. to accept orders for phosphatic fertiliser from the Otago Rural Trading Society Ltd., and the Rural Co-operative Society Ltd., provided that the said societies conform with the conditions for payment of supplies as set out hereunder, or on such other terms as may be agreed upon from time to time between the company and any of the said societies.

**TERMS FOR PAYMENT**

In this order the word "price" means:

- (a) In the case of phosphatic fertiliser, subject to the provisions of a price order, the price stated in the price order; or
- (b) In the case of fertilisers which are subject to the approval of the Department of Industries and Commerce, under authority delegated by the Price Tribunal, the price so approved by the department in accordance with the formula approved by the Price Tribunal and duly notified to the department as directed by the Price Tribunal.

Orders will be placed by each society with the company.

Not less than seven days before delivery of the fertiliser is made or required the society concerned shall deposit into a bank account nominated by the company an amount calculated at the rate of £10 per ton of fertiliser or in the event of price increases the £10 per ton is to be adjusted to the nearest 10s. increase.