



# THE TRADE MARKS REGULATIONS 1954, AMENDMENT NO. 11

PAUL REEVES, Governor-General

## ORDER IN COUNCIL

At Wellington this 14th day of December 1987

Present:

HIS EXCELLENCY THE GOVERNOR-General IN COUNCIL

PURSUANT to the Trade Marks Act 1953, 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 and commencement
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3. Size, etc., of documents
4. Classification of goods and services
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6. Addressing of correspondence, etc.
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14. Registration
15. Application for entry of assignment without goodwill
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20. Representation of trade mark for advertisement
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## REGULATIONS

### 1. Title and commencement—

(1) These regulations may be cited as the Trade Marks Regulations 1954, Amendment No. 11, and shall be read together with and deemed part of the Trade Marks Regulations 1954\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of February 1988.

### 2. Interpretation—

Regulation 2 of the principal regulations is hereby amended by inserting in the definition of the term “specification”, after the word “goods”, the words “or services”.

### 3. Size, etc., of documents—

The principal regulations are hereby amended by revoking regulation 8 (as amended by the Trade Marks Regulations 1954, Amendment No. 2), and substituting the following regulation:

“8. Unless the Commissioner otherwise directs, all documents and copies of documents filed at the Patent Office under the Act or these regulations shall be,—

“(a) In the English language;

“(b) Upon strong white paper of approximately A4 international size;

“(c) Except in the case of printed forms, declarations, and affidavits, on one side only; and

“(d) Set out leaving a margin of at least 2.5 cm on the left-hand part thereof.”

### 4. Classification of goods and services—

The principal regulations are hereby amended by revoking regulation 10 and the 2 headings above that regulation, and substituting the following headings and regulation:

## “CLASSIFICATION OF GOODS AND SERVICES

### “*Classification According to Third or Fourth Schedule*”

“10.

(1) For the purposes of trade mark registrations dated before the 11th day of December 1941, and of registrations of registered users thereunder, goods shall be classified in the manner appearing in the Third Schedule to these regulations, unless the specification has been converted pursuant to these regulations.

“(2) For the purposes of trade mark registrations dated on or after the 11th day of December 1941, and of registrations of registered users thereunder, and for the purposes of any registrations dated before that date the specifications of which have been converted pursuant to these regulations, goods shall be classified in the manner appearing in Part I of the Fourth Schedule to these regulations and services shall be classified in the manner appearing in Part II of the Fourth Schedule to these regulations.”

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\* S.R. 1954/222  
Amendment No. 1: S.R. 1966/205  
Amendment No. 2: S.R. 1975/61  
Amendment No. 3: (Revoked by S. R. 1977/62)  
Amendment No. 4: (Revoked by S. R. 1900/82)  
Amendment No. 5: (Revoked by S. R. 1982/85)  
Amendment No. 6: (Revoked by S. R. 1984/125)  
Amendment No. 7: (Revoked by S. R. 1985/225)  
Amendment No. 8: (Revoked by S. R. 1986/67)  
Amendment No. 9: (Revoked by S. R. 1987/229)  
Amendment No. 10: S.R. 1987/229

#### **5. Unrecognised agents—**

Regulation 13 of the principal regulations is hereby amended by:

- (a) Omitting from paragraph (c) the expression “Law Practitioners Act 1931”, and substituting the expression “Law Practitioners Act 1982”:
- (b) By revoking paragraph (d), and substituting the following paragraph:  
“(d) Who has been convicted of a crime specified in Part X (except sections 293 to 305) of the Crimes Act 1961; or”.

#### **6. Addressing of correspondence, etc.—**

Regulation 14 of the principal regulations is hereby amended by omitting the name “Wellington”, and substituting the name “Lower Hutt”.

#### **7. Form of application—**

Regulation 18 (1) of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

#### **8. Separate applications—**

Regulation 19 of the principal regulations is hereby amended by inserting, after the word “goods”, in each place where it occurs, the words “or services”.

#### **9. Name or description of goods or services on trade mark—**

The principal regulations are hereby amended by revoking regulation 25 and the heading above that regulation, and substituting the following heading and regulation:

#### *“Name or Description of Goods or Services on Trade Mark*

“25.

(1) Where the name or description of any goods or services appears on a trade mark, which name or description may vary in use, the Commissioner may register the mark for those and other goods or services if the applicant undertakes that the name or description will be varied when the mark is used on goods or in relation to services covered by the specification other than the named or described goods or services. Any such undertaking shall be entered on the application.”

“(2) If the applicant does not so undertake, the Commissioner may refuse to register the mark in respect of any goods or services other than the named or described goods or services.”

#### **10. Search—**

The principal regulations are hereby amended by revoking regulation 26, and substituting the following regulation:

“26. Upon receipt of an application for the registration of a trade mark, the Commissioner shall cause a search to be made of the registered marks and the marks at the time included in pending applications, for the purpose of ascertaining whether section 17 of the Act applies to the mark applied for. The Commissioner may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

### **11. Representation of trade mark—**

The principal regulations are hereby amended by revoking regulation 33 and the heading above that regulation, and substituting the following heading and regulation:

#### *“Representation of Trade Mark*

“33. For the purposes of any such advertisement the applicant may, at the appropriate time, supply or be required to supply a bromide quality representation (or, if necessary, more than one) of the trade mark satisfactory to the Commissioner, of such dimensions as may from time to time be approved or directed by the Commissioner, or shall supply such information or other means of advertising the trade mark as may be required by the Commissioner. The Commissioner, if dissatisfied with the bromide quality representation supplied by the applicant or his agent, may require a fresh representation before proceeding with the advertisement.”

### **12. Advertisement of a series—**

Regulation 34 of the principal regulations is hereby amended by omitting the expression “printing block”, and substituting the expression “bromide quality representation”.

### **13. Hearing—**

Regulation 44 (2) of the principal regulations is hereby amended by omitting the name “Wellington”, and substituting the name “Lower Hutt”.

### **14. Registration—**

Regulation 48 (2) of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

### **15. Application for entry of assignment without goodwill—**

Regulation 61 (1) (a) of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

### **16. Entry in Register—**

Regulation 63 of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

### **17. Separate owners—**

Regulation 64 of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

### **18. Commissioner’s certificate of approval as to certain assignments and transmissions—**

Regulation 65 of the principal regulations is hereby amended by omitting the expression “subsection (6)”, and substituting the expression “subsection (6A)”.

### **19. Commissioner’s directions for advertisement of assignment without goodwill of trade mark in use—**

Regulation 66 (2) of the principal regulations is hereby amended by omitting the words “the said subsection”, and substituting the expression “section 31 (6A) of the Act”.

### **20. Representation of trade mark for advertisement—**

The principal regulations are hereby amended by revoking regulation 80 thereof and the heading above that regulation, and substituting the following heading and regulation:

## *“Representation of Trade Mark for Advertisement*

“80. In connection with an application to alter a registered trade mark, the Commissioner may at any time, call on the applicant to supply a bromide quality representation satisfactory to the Commissioner and suitable for advertising the mark with the addition or alteration as aforesaid, if in the opinion of the Commissioner an advertisement describing the addition or alteration in words would not be readily understood by persons interested in the matter.”

### **21. Cancellation by Commissioner—**

Regulation 89 of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

### **22. Regulation relating to declarations revoked—**

Regulations 101 and 102 of the principal regulations are hereby revoked.

### **23. Search and preliminary advice—**

(1) Regulation 103(1) of the principal regulations is hereby amended by inserting, after the word “goods”, the words “or services”.

(2) Regulation 103(2) of the principal regulations is hereby amended by inserting, after the word “goods”, in each place where it occurs, the words “or services”.

### **24. Revocations—**

The following regulations are hereby consequentially revoked—

- (a) The Trade Marks Regulations 1954, Amendment No. 1<sup>1</sup>;
- (b) The Trade Marks Regulations 1954, Amendment No. 2<sup>2</sup>.

### **25. First Schedule amended—**

The First Schedule to the principal regulations (as substituted by regulation 2(2) of the Trade Marks Regulations 1954, Amendment No. 10) is hereby amended—

- (a) By inserting in item 2, after the word “goods”, the words “or services”;
- (b) By inserting in item 3, after the word “goods”, the words “or services”;
- (c) By inserting in item 4, after the word “goods”, the words “or services”;
- (d) By inserting in item 18, after the word “goods”, the words “or services”.

### **26. Amendments to forms in Second Schedule—**

The forms in the Second Schedule to the principal regulations are hereby amended in the manner indicated in the First Schedule to these regulations.

### **27. New Fourth Schedule substituted—**

The principal regulations are hereby amended by revoking the Fourth Schedule thereto and substituting the Fourth Schedule set out in the Second Schedule to these regulations.

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<sup>1</sup> S.R. 1966/205

<sup>2</sup> S.R. 1975/61

SCHEDULES

FIRST SCHEDULE

Amendments to Forms in Second Schedule to Principal Regulations

Reg. 26

Form Amended	Amendment
T.M. Form No. 1	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 2	By omitting the expression "Fee No. 29", and substituting the expression "Fee No. 28".
T. M. Form No. 3 and T.M.	By omitting the name "Wellington", and substituting the name "Lower Hutt".
Form No. 4	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 5	By omitting the word "Goods", and substituting the words "(Goods) (services) (dd)".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By omitting footnote (b), and substituting the following footnote:
	"(b) Here insert a representation of the mark. If the mark consists of a word, it will be advertised in ordinary block lettering. If a special type is desired, a bromide quality representation must be filed. A bromide quality representation must also be filed for any device or label mark."
	By inserting after footnote (d) the following footnote:
	"(dd) Strike out whichever is not applicable."
	By inserting in footnote (e), after the word "goods", the words "or services".
T.M. Form No. 6	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting in footnote (c), after the word "goods", the words "or services".
	By inserting in footnote (d), after the word "goods", in each place where it occurs, the words "or services".
T.M. Form No. 7	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting in footnote (b), after the word "goods", the words "or services".
	By inserting, in footnote (c) after the word "goods", in each place where it occurs, the words "or services".
T.M. Form No. 8	By omitting the expression "Fee No. 29", and substituting the expression "Fee No. 28".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 9	By omitting the expression "Fee No. 30", and substituting the expression "Fee No. 29".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 11	By omitting the expression "Fee No. 6", and substituting the expression "Fee No. 5".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 12	By omitting the word "goods", and substituting the expression "(a) (goods) (services)".
	By adding the following footnote:
	"(a) Strike out whichever is not applicable."
T.M. Form No. 13	By omitting the expression "Fees Nos. 7, 8", and substituting the expression "Fees Nos. 6, 7"
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 14	By omitting the expression "Fee No. 10", and substituting the expression "Fee No. 9".
	By omitting the words "The additional fee of £2 and the prescribed renewal fee with T. M. Form No. 13 are transmitted herewith", and substituting the words "The prescribed restoration fee of ... and the prescribed renewal fee of ... with T.M. Form No. 13 are transmitted herewith."
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 15	By omitting the expression "Fee No. 11", and substituting the expression "Fee No. 10".
	By omitting the word "goods", in each place where it occurs, and substituting the words "(i) (goods) (services)".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 16	By omitting the expression "Fee No. 13", and substituting the expression "Fee No. 12".
	By omitting the word "Goods", in the first place where it occurs, and substituting the words "(cc) (Goods) (Services)".
	By omitting the word "goods", and substituting the words "(cc) (goods) (services)".



Form Amended	Amendment
	By omitting the word "Goods", in the second place where it occurs, and substituting the words "(cc) (Goods) (Services)".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting after footnote (c) the following footnote:
	"(cc) Strike out whichever is not applicable."
	By inserting in footnote (f), after the word "goods", the words "or services".
T.M. Form No. 17	By omitting the expression "Fee No. 14", and substituting the expression "Fee No. 13".
T.M. Form No. 18	By omitting the expression "Fee No. 15", and substituting the expression "Fee No. 14".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 19	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 20	By omitting the expression "Fee No. 16", and substituting the expression "Fee No. 15".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 21	By omitting the expression "Fee No. 17", and substituting the expression "Fee No. 16".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 22	By omitting the expression "Fee No. 18", and substituting the expression "Fee No. 17".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 23	By omitting the expression "Fee No. 19", and substituting the expression "Fee No. 18".
	By inserting in the description of the form after the word "GOODS", the words "OR SERVICES".
	By omitting the word "goods", and substituting the words "(dd) (goods) (services)".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting in footnote (d), after the word "goods", the words "or services".
	By inserting, after footnote (d), the following footnote:
	"(dd) Strike out whichever is not applicable".
T.M. Form No. 24	By omitting the expression "Fee No. 20", and substituting the expression "Fee No. 19".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 25	By omitting the expression "Fee No. 21", and substituting the expression "Fee No. 20".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 26	By omitting the expression "Fee No. 22", and substituting the expression "Fee No. 21".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 27	By omitting the expression "Fee No. 23", and substituting the expression "Fee No. 22".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 28	By omitting the expression "Fee No. 29", and substituting the expression "Fee No. 28".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 29	By omitting the expression "Fee No. 24", and substituting the expression "Fee No. 23".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 30	By omitting the expression "Fee No. 25", and substituting the expression "Fee No. 24".
	By omitting the name "Wellington," and substituting the name "Lower Hutt".
T.M. Form No. 31	By omitting the expression "Fee No. 26", and substituting the expression "Fee No. 25".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting in footnote (h), after the word "goods", the words "or services".
T.M. Form No. 32	By omitting the expression "Fee No. 27", and substituting the expression "Fee No. 26".
	By inserting in the description of the form after the word "GOODS," the words "OR SERVICES".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By omitting, from footnote (f), the word "register", and substituting the word "registered".
	By inserting, in footnote (g), after the word "goods", the words "or services".
T.M. Form No. 33	By omitting the expression "Fee No. 27", and substituting the expression "Fee No. 26".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting, in footnote (h), after the word "goods", the words "or services".
T.M. Form No. 34	By omitting the expression "Fee No. 27", and substituting the expression "Fee No. 26".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".
	By inserting in footnote (f), after the word "goods", the words "or services".
T.M. Form No. 35	By omitting the name "Wellington", and substituting the name "Lower Hutt".
T.M. Form No. 36	By omitting the expression "Fee No. 28", and substituting the expression "Fee No. 27".
	By omitting the name "Wellington", and substituting the name "Lower Hutt".



Form Amended	Amendment
T.M. Form No. 37	By omitting the expression "Fee No. 33", and substituting the expression "Fee No. 32". By omitting the name "Wellington", and substituting the name "Lower Hutt".

Reg. 27

## SECOND SCHEDULE

### New Fourth Schedule to Principal Regulations

Reg. 10 (2)

## “FOURTH SCHEDULE

### Classification of Goods and Services

#### Part 1

#### Classes of Goods

(1) Chemicals used in industry, science, photography, agriculture, horticulture, and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

(2) Paints, varnishes and lacquers; preservatives against rust and deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

(3) Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics and hair lotions; dentifrices.

(4) Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks.

(5) Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use and food for babies; plasters and materials for dressings; material for stopping teeth and dental wax; disinfectants; preparations for destroying vermin; fungicides and herbicides.

(6) Common metals and their alloys; metal building materials; transportable metal buildings; metal materials used for railway tracks; non-electric cables and wires of common metal; ironmongery and small items of metal hardware; metal pipes and tubes; safes; goods of common metal not included in other classes; ores.

(7) Machines and machine tools; motors except for use in land vehicles; machine coupling and belting except for use in land vehicles; agricultural implements; incubators for eggs.

(8) Hand operated tools and implements; cutlery; side arms; razors.

(9) Scientific, nautical, surveying, electronic, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers and calculating machines, data processing equipment and computers; fire-extinguishing apparatus.



(10) Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials.

(11) Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

(12) Vehicles: apparatus for locomotion by land, air or water.

(13) Firearms, ammunition and projectiles; explosives; fireworks.

(14) Precious metals, their alloys, and goods in precious metals or coated therewith, not included in other classes; jewellery; precious stones; horological and chronometric instruments.

(15) Musical instruments.

(16) Paper, cardboard and goods made from these materials not included in other classes; printed matter; bookbinding material; photographs, stationery; adhesives for stationery or household purposes; artists materials; paint brushes; typewriters and office requisites except furniture; instructional and teaching material except apparatus; plastic materials for packaging not included in other classes; playing cards; printers' type; printing blocks.

(17) Rubber, gutta-percha, gum, asbestos, mica, and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible non-metal pipes.

(18) Leather, imitations of leather and goods made from these materials and not included in other classes; animal skins and hides; trunks and travelling bags; umbrellas, parasols, and walking sticks; whips, harness, and saddlery.

(19) Non-metallic building materials; non-metallic rigid pipes for use in or in connection with building; asphalt, pitch, and bitumen; non-metallic transportable buildings; non-metallic monuments.

(20) Furniture, mirrors and picture frames, goods not included in other classes and made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, and substitutes for these materials, or of plastics.

(21) Household or kitchen utensils and containers not of precious metal or coated therewith; combs and sponges; brushes except paint brushes; brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass except glass used in building; glassware, porcelain and earthenware not included in other classes.

(22) Ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks and bags, not included in other classes; padding and stuffing materials not of rubber or plastics; raw fibrous textile materials.

(23) Yarns and threads for textile use.

(24) Textiles and textile goods, not included in other classes; bed and table covers.

(25) Clothing; footwear; headgear.

(26) Lace, embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

(27) Carpets, rugs, mats and matting, linoleum and other materials for covering floors; non-textile wall hangings.



(28) Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

(29) Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and milk products; edible oils and fats; salad dressings; preserves.

(30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry, confectionery and ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces except salad dressings; spices; ice.

(31) Agricultural, horticultural and forestry products and grains, not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.

(32) Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

(33) Alcoholic beverages except beers.

(34) Tobacco; smokers' articles; matches.

## Part II Classes of Services

(35) Advertising and business.

(36) Insurance and financial.

(37) Construction and repair.

(38) Communication.

(39) Transportation and storage

(40) Material treatment.

(41) Education and entertainment.

(42) Miscellaneous services being services other than those included in a class referred to in another item in this Part.”

C. J. HILL,  
Acting for 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 1 February 1988, extend the application of the Trade Marks Regulations 1954 to services. With effect from 1 May 1988, by virtue of the Trade Marks Amendment Act 1987, which comes into force on 1 May 1988, trade marks may be registered for services as well as goods. Applications for the registration of trade marks for services may, by virtue of that Act, be made on 1 February 1988 and before the coming into force of that Act, and are to be treated as having been made on its coming into force.

The regulations make a number of other amendments to the principal regulations and substitute a new Fourth Schedule specifying the classes of goods and services in respect of which trade marks may be registered.



Issued under the authority of the Regulations Act 1936.

Date of notification in Gazette: 17 December 1987.

These regulations are administered in the Department of Justice.

WELLINGTON, NEW ZEALAND: Printed under the authority of the  
New Zealand Government by V. R. WARD, Government Printer—1987