Commencement: 29 August 1974

CHAPTER 86

PRICE CONTROL

JR 18 of 1974
JR 27 of 1974
JR 10 of 1975

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PRICE CONTROL

To make provision for controlling the price of goods and services.

PART 1 – INTERPRETATION

1. Interpretation

In this Act and in any subsidiary legislation made thereunder, unless the context otherwise requires –

"Controller" means the Price Controller referred to in section 3;

"Inspector" means a Price Inspector referred to in section 3;

"Minister" means the Minister responsible for price control;

"price" when used in connection with the provision of services includes the rate charged for supplying or carrying on any service and the term "price" or "rate" shall be deemed to include valuable consideration of any kind whatsoever, direct or indirect;

"retail" when used in relation to any sale means a sale by a retailer to a consumer;

"retail price" means the price paid or payable for goods sold by retail;

"retailer" means a trader who sells goods to a consumer;

"trader" means any person who in connection with any business carried on by him sells, has sold, or proposes to sell any goods, or who supplies or who carries on any service;

"wholesale" when used in relation to any sale means a sale by a wholesaler to any person;

"wholesaler" means a trader who sells goods to any person for the purpose of resale or for use by such person in his trade or business;

"wholesale price" means the price paid or payable for goods sold by wholesale.

PART 2 – PRICE CONTROL BUREAU

2. Establishment of Price Control Bureau

A Price Control Bureau is hereby established for Vanuatu which shall form an independent part of the Ministry responsible for price control.

3. Composition of Bureau

The Bureau shall comprise a Price Controller and a sufficient number of Price Inspectors –

Provided however that police officers of or above the rank of sergeant shall, by virtue of their rank and office be entitled to exercise all functions of a Price Inspector upon having made the declaration of secrecy required by section 11.

4. Functions of Bureau

The functions of the Price Control Bureau shall be –

(a) to ensure that the legislation concerning price control is observed by all traders, persons engaged in commercial activities and persons providing services;

(b) to verify any infringements of the said legislation and to make a report thereon.

5. Exercise of functions of Bureau
The Controller and Inspectors shall exercise the functions of the Bureau with the powers conferred upon them by this Act.

PART 3 – PRICES ADVISORY COMMITTEE

6. Establishment of Prices Advisory Committee
A Prices Advisory Committee is hereby established the composition whereof shall be fixed by the Minister.

7. Consultation of Committee on draft legislation concerning prices
The Committee shall be consulted on all draft legislation concerning prices. It may call before it any person or representative of any businesses whose advice may appear to it useful.

It shall in addition give all necessary publicity to any draft legislation submitted to it for a period of 2 weeks and shall receive either verbally or in writing any representations which may be made.

PART 4 – PROCEDURE AND METHOD FOR FIXING PRICES

8. Inquiry into price structure and profit margins
Before any legislation concerning the control of prices charged for the supply of any goods or services is initiated, the Price Control Bureau shall undertake an inquiry into the price structure and profit margins applied by those persons who supply, whether as wholesaler or retailer, such goods or supply such services.

9. Methods of fixing prices
If it shall appear as a result of any inquiry undertaken as aforesaid that price control measures should be initiated, the Price Controller shall so inform the Minister who may, after consulting the Prices Advisory Committee in accordance with section 7, make rules –

(a) determining the price itself by freezing or fixing;

(b) determining a profit margin as a fixed sum or as a percentage; or

(c) controlling prices by any other means which may appear suitable.

PART 5 – CONTROLLER AND INSPECTORS

10. Powers of Controller and Inspectors
The Controller and Inspectors shall have power –

(a) at any reasonable time to require any trader –

  (i) to furnish either verbally or in writing, honestly and to the best of his knowledge, any information concerning the price structure applicable to such of his business activities as may be specified;

  (ii) as soon as is reasonably possible to produce or to supply a copy of any paper or document relating to the price structure applicable to such of his business activities as may be specified in no matter whose possession the same may be;

(b) during the normal working hours of any business –

  (i) to enter and inspect any business premises and to take such steps as may be reasonably necessary to effect such purposes;

(ii) to take possession of any paper, document or sample of merchandise which may appear to him to be evidence constituting proof of any contravention of this Act or any rules made thereunder.

11. Secrecy

(1) The Controller and Inspectors shall be bound by business secrecy but may nevertheless solely for official purposes communicate to the Prices Advisory Committee any information or documents which are necessary for its decisions, provided that such information or documents disclose neither the name nor the business name nor the address of the trader to whom they relate.

(2) In order to ensure compliance with this section the Controller and Inspectors shall individually enter into an undertaking of secrecy in the form prescribed in the Schedule.

PART 6 – DUTIES OF TRADERS

12. Traders to keep books, accounts, etc.

Every trader shall keep proper and up-to-date books, accounts and records as are customary in his business or as may be directed in writing by the Controller with the approval of the Minister.

13. Prohibition of destruction of documents within 2 years

No trader shall, without the prior consent of the Controller, destroy wholly or partially or render unusable any document relating to his business activities within a period of 2 years from the date on which such document came into being.

14. Invoices, etc., to be supplied

(1) Every wholesaler shall supply his customers with an invoice which must contain the following particulars –

(a) the name and address of the seller and the purchaser;

(b) the date;

(c) a description of the merchandise;

(d) the individual and total prices, together with any additional information specifically relating to particular businesses, merchandise or services as may be required by the Controller.

A duplicate of this invoice must be retained by the trader for a period of 2 years after the date on which the same was issued.

(2) Every trader who supplies goods by retail or who supplies any service shall, when such goods or services are supplied on credit, issue at the time when such goods or services are supplied an invoice to the purchaser and a note in duplicate containing the following information –

(a) the name of the trader;

(b) the name and first name of the customer;

(c) the date;

(d) the total amount.

The trader shall thereupon present such note to the customer for signature after which the trader shall hand one copy to the customer. In the case of cash sales the trader need not issue a note as aforesaid unless otherwise provided in any subsidiary legislation made in accordance with section 15 or unless so requested by the purchaser.

15. Power to make subsidiary legislation

The Minister may make such subsidiary legislation as he shall deem necessary for the implementation of this Act and in particular for prescribing the requirements as to the advertising of prices which are to be observed by traders.

16. Power to regulate activity of traders

Without prejudice to the provisions of section 15, if it appears to the Minister necessary to do so, he may, on the advice of the Price Controller or the Prices Advisory Committee, make subsidiary legislation to control any operation or activity (including the refusal to sell goods or supply services) by any trader or group of traders which would have as its effect the artificial or unjustified increase or reduction of the price paid for goods whether such goods are sold wholesale or retail.

PART 7 – OFFENCES AND PENALTIES

17. Offences

(1) Any person refusing to comply with any requirement made of him in accordance with the provisions of section 10 or by any Inspector, or who wilfully supplies him with false information or with documents which he knows to be erroneous, or who obstructs in any way the Controller or any Inspector in the exercise of his duty shall be guilty of an offence and liable to the penalties prescribed in section 18.

(2) Any trader who, whilst complying with the requirements of any subsidiary legislation made under the provisions of this Act regarding the pricing, labelling, description or invoicing of goods supplied by him, nevertheless sells or exposes for sale goods or supplies services otherwise than in accordance with the price, label, description or invoice applied by him to such goods or services, shall be guilty of an offence and is liable to the penalties prescribed in section 18.

18. Penalties

(1) Any person who contravenes the provisions of this Act or any subsidiary legislation which shall be made for the implementation thereof shall be liable to a fine not exceeding VT200,000 or imprisonment for a term not exceeding 1 year, or to both such fine and imprisonment.

(2) In addition, notwithstanding the provisions of the Business Licence Act, Cap. 173, the shop or premises where the offence has taken place may be closed by order of the Minister for a period not exceeding 3 months and the trader who has committed the offence shall at his expense display a copy of the said order. The order shall be displayed on the principal entrance to the premises and shall be clearly readable from outside the premises.

19. Offences by company

If any offence is committed by a legally incorporated company, the manager or any officer thereof responsible under the articles of association of the said company, shall be guilty of such offence unless he satisfies the court that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

20. Offences by employees

Any trader who employs any person whether paid or not within his place of business shall be responsible for the acts or omissions of such employee and may be charged therewith if such acts or omissions constitute an offence against this Act unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of any offence; in such case only the employees responsible shall be charged.

SCHEDULE

(section 11(2))

Form of Undertaking of Secrecy under section 11 of the Price Control Act, Cap. 86

I, ... of .....
being an Inspector/Controller appointed to that office in accordance with the Price Control Act hereby undertake not to voluntarily disclose any information supplied in pursuance of the Price Control Act, except as allowed by that Act.

.....
(Signature)

Signed at ..... this ..... day of ....., 20.....

Witness: .....