



ST HELENA

REVISED EDITION OF THE LAWS, 2017

EMPLOYMENT & COMMERCE

PRICE CONTROL ORDINANCE, 1957¹

Ordinance 15 of 1957

In force 31 December 1957

No amendments to 1 November 2017

Price Control Orders are omitted from this Revised Edition

No other subsidiary legislation has been made to 1 November 2017

PRICE CONTROL ORDINANCE, 1957

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¹ *Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.*

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AN ORDINANCE to make provision for the control of prices and for connected and incidental matters.

Short title and application

1. This Ordinance may be cited as the Price Control Ordinance, and applies only to St Helena.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
- “**commission agent**” means any person who receives or orders goods or services on account of other persons, or who solicits orders for goods or services on behalf of other persons, and includes a person carrying on business as a broker;
- “**Controller of Supplies**” or “**Controller**” means the Collector of Customs and Excise or any other officer the Governor appoints as Controller of Supplies;
- “**cost price**” means the cost price determined in the manner prescribed in an order under section 3(5);
- “**goods**” includes all chattels personal (other than things in action and money), emblements, industrial growing crops and things attached to or forming part of the land, which are agreed to be severed before sale or under a contract of sale;
- “**maximum commission**” means the maximum lawful commission which may be charged in respect of the sale or hire of any goods or the rendering of any services in accordance with this Ordinance;
- “**maximum hire charge**” means the maximum lawful charge at which goods may be hired in accordance with this Ordinance;
- “**maximum price**” means the maximum lawful price at which goods may be sold in wholesale or retail quantities or otherwise, as the case may be, in accordance with this Ordinance, and may include the maximum commission in relation to the sale of such goods from time to time fixed by the Controller of Supplies under this Ordinance;
- “**maximum service charge**” means the maximum lawful charge at which services may be rendered in accordance with this Ordinance;
- “**price-controlled goods**” means goods the maximum price for which has been fixed by an order made under section 3 or by an order deemed under subsection 3(4) to have been made under and to have effect by virtue of this Ordinance;
- “**price-controlled service**” means a service the price for which has been fixed by an order made under section 3;
- “**producer**” means any person producing goods in the course of the person’s business;
- “**sell**” with its grammatical variations and cognate expressions includes an agreement to sell and an offer to sell, and an offer to sell is deemed to include the exposing of goods for sale, the publication of a price list, the furnishing of a quotation or any other act or notification whatsoever by which willingness to enter any transaction of sale is expressed;
- “**selling price**” means the actual net price charged to the purchaser of the goods concerned,

after all discounts or other allowances have been deducted;
 “service” includes the sale or hire of goods, when sold or hired in connection with the rendering of a service;

“supply” includes sell and hire;

“trader” means—

- (a) any person, other than a commission agent or a clearing and forwarding agent who carries on the business of supplying goods; or
- (b) any person carrying on business in the course of which the person supplies goods for the purpose of or in pursuance of a contract made by the person for work, labour and materials.

Powers of Controller of Supplies

3. (1) The Controller of Supplies may, with the approval of the Governor, from time to time by public notice—

- (a) fix maximum prices for the sale of any goods by—
 - (i) any person to any person;
 - (ii) their manufacturer to or through the agency of a trader in such goods;
 - (iii) by a trader in such goods to another trader in such goods;
 - (iv) by a trader in such goods to a person who is not a trader in such goods;
 - (v) by a person who is not a trader in any particular goods to a trader in such goods;
- (b) fix the maximum service charge that may be made for any services;
- (c) fix the maximum hire charge that may be made for the hire of any goods;
- (d) fix the maximum commission that may be charged whether as part of the price or charge or separately from it by any person or class of persons in respect of the sale, purchase or hire of any goods or the rendering of any services;
- (e) fix the maximum price, or prescribe the manner in which the maximum price is to be ascertained, of any second-hand goods, whether for sale by traders in such goods, or by the owners of such goods; or
- (f) prescribe the type of packing, weight, size, quality and the processing and ingredients of any goods manufactured in St Helena.

(2) For the purposes of this section the Controller may fix the maximum price or any maximum charge or maximum commission in respect of the sale or hire of any goods or the rendering of any services by declaring in any manner how such maximum price, charge or commission is to be ascertained.

(2A) Without limiting the power in subsection (2), the Controller may fix any such maximum price or charge either by declaring the maximum price or charge irrespective of the price or charge for such goods or services to the seller, hirer or person rendering them, or by declaring that any maximum price of goods is to be a price not exceeding the cost price to the seller plus a stated sum or a stated percentage of the cost price or a stated maximum profit or a stated maximum commission.

(3) Under this section the Controller may—

- (a) fix a maximum price or a maximum service charge or a maximum hire charge or a maximum charge for commission for any area of St Helena which differs from the maximum price or maximum charge fixed in respect of like or similar goods or services for another area;

- (b) fix a maximum price or maximum hire charge for goods which includes any charge made for commission or any services whether price controlled or not, rendered in relation to the sale or hire of such goods;
- (c) fix a maximum service charge for services which includes any price or charge for the sale or hire of goods, whether price controlled or not, sold or hired in connection with such services.

(4) The Controller may by public notice or in any other manner the Controller considers necessary to bring the matter to the knowledge of the public declare the method by which the cost price of any goods or services is to be determined, and such a notice when so displayed or brought to the knowledge of the public is deemed to have been published.

(4A) The Controller may in a notice under subsection (4) declare different methods of determining the cost price in respect of different classes of goods, transactions or sellers.

- (5) For the purpose of assisting the Controller to—
- (a) determine whether any goods or services are to be made the subject of an order under this section fixing the prices for them; or
 - (b) decide the manner in which the powers conferred on the Controller by this section are to be exercised in respect of any goods or services,

the Controller may require any person who is a trader, manufacturer, producer, commission agent, clearing and forwarding agent or other person supplying goods or rendering services—

- (i) to furnish verbally or in writing and in a form the Controller requires, any information in relation to the person's trade or business either by way of periodical return or otherwise;
- (ii) to produce for inspection by the Controller any books, accounts or other documents relating to the person's trade or business and to submit to the Controller samples of any goods in which the person deals.

Display of lists of maximum prices and charges

4. Lists of maximum prices or maximum charges fixed by the Controller under section 3 must be displayed at any places in St Helena the Controller considers necessary to bring the matters to the notice of the public, and such prices or charges are when so displayed sufficient notice of them to all persons affected by them.

Traders and others may be required to display prices

5. (1) The Controller may by public notice require any trader or other person supplying price-controlled goods or rendering price-controlled services to display in a prominent manner and in a conspicuous position so that it may be easily read and is clearly legible to customers in those parts of the premises of the trader or other person where business is done, a list of the current maximum prices and maximum hire charges for the price-controlled goods mentioned in the order that the trader or other person may supply, or the maximum service charges for the price-controlled services specified in the order that the trader or other person may render.

(1A) A notice under subsection (1) may relate to a class of trader or other person supplying price-controlled goods or rendering price-controlled services.

(2) A notice under subsection (1) or (1A) may apply to St Helena as a whole or to any area or areas of it and may provide for the form in which any list of maximum prices or maximum hire charges or maximum service charges which it requires to be displayed is to be arranged.

Books of account

6. (1) Every person who is a trader, manufacturer, producer, commission agent, clearing and forwarding agent or other person supplying price-controlled goods or rendering price-controlled services must -

- (a) keep books of account or other records in respect of the person's dealings in price-controlled goods or price-controlled services;
- (b) make any prescribed entries in the books of account and records; and
- (c) preserve the books of account or records after the date of the last entry in them for 2 years or any other prescribed period.

(2) If any retail trader, commission agent or clearing and forwarding agent or other person supplying price-controlled goods or rendering price-controlled services shows to the satisfaction of the Controller that the application of this section would impose undue hardship, the Controller may, in his or her absolute discretion, exempt such retail trader, commission agent, clearing and forwarding agent or other person from complying with the provisions of this section to an extent and on conditions and for a time the Controller considers fit.

Trader to supply invoice

7. (1) Every person who is a trader, manufacturer, producer or commission agent—

- (a) must at the time of sale or hire supply to every purchaser or hirer from the person of price-controlled goods in wholesale quantities an original invoice containing the following particulars—
 - (i) the name of the seller or person letting on hire;
 - (ii) the name of the purchaser;
 - (iii) the date of the sale or hire;
 - (iv) a description sufficiently exact to identify the price-controlled goods;
 - (v) the quantity of the price-controlled goods sold or hired;
 - (vi) the prices or charges charged for the goods including any charge for commission; and
- (b) must retain in the person's records a duplicate copy of the invoice, which need not contain the name of the seller or person letting on hire.

(2) Every person who is a trader, manufacturer, producer or commission agent—

- (a) must at the time of sale or hire supply to every purchaser or hirer from the person of price-controlled goods in retail quantities an original invoice containing the following particulars—
 - (i) the name of the seller or person letting on hire;
 - (ii) the date of the sale or hire;
 - (iii) a description sufficiently exact to identify the price-controlled goods;
 - (iv) the quantity of the price-controlled goods sold or hired; and
 - (v) the prices or charges charged for the goods including any charge for

commission; and

- (b) must retain in the person's records a duplicate copy of the invoice which need not contain the name of the seller or person letting on hire.

(3) For the purpose of this section the seller or person letting on hire must specify in writing the price or charge which the person assigns to each class of price-controlled goods included in the transaction.

(4) Every person who renders to any person any price-controlled service for which a charge has been or is to be made must as soon as possible after the service has been rendered must -

- (a) supply to the person an invoice describing the service and showing the charge which has been or is to be made for the service, including any charge for commission, and the selling price of any materials used in connection with the service; and
- (b) keep a copy of every such invoice in the person's records.

(5) The Controller may exempt any trader, manufacturer, producer or commission agent from compliance with any of subsections (1), (2), (3) or (4) for a time and under conditions the Controller thinks fit.

Sale, hire or service above maximum price or charge

8. (1) It is an offence for a person to -

- (a) sell or let on hire any price-controlled goods;
- (b) render any price-controlled service at a price or charge which exceeds the maximum price or the maximum hire charge, or the maximum service charge, as the case may be; or
- (c) charges any commission exceeding the maximum commission.

Penalty: As provided in section 18.

(2) Subject to section 17, it is an offence for a person to -

- (a) purchase or offer to purchase or take or offer to take on hire any price-controlled goods at a price or charge which exceeds the maximum price or maximum hire charge for such goods; or
- (b) pay or offer to pay for any price-controlled service a charge which exceeds the maximum service charge fixed for it.

Penalty: As provided in section 18.

Sale of price-controlled goods not conforming with requirements

9. It is an offence for a trader to sell, let on hire, purchase or be in possession of any price-controlled goods manufactured in St Helena which do not conform as to packing, weight, size, quality or the processing or ingredients of them with any order made by the Controller under section 3(1).

Penalty: As provided in section 18.

Failure to keep accounts, etc.

10. It is an offence for a person, unless exempted from compliance with such

obligations, to fail to comply with any obligation imposed on the person—

- (a) by section 5, in regard to the display of maximum prices and charges;
- (b) by section 6, in regard to the keeping of books of account and records, the making of entries in them, and the preservation of them; or
- (c) by section 7, in regard to the supply or retention of invoices.

Penalty: As provided in section 18.

Falsification of documents

11. (1) It is an offence for a person, in relation to any dealing in price-controlled goods or price-controlled services, to-

- (a) falsify any document, record book or account concerning the person's trade or business;
- (b) knowingly or recklessly make an entry such a document, record book or account which is false or incorrect in a material particular.

Penalty: As provided in section 18.

(2) It is an offence for a person to neglect to make an entry in any document, record book or account concerning any dealing in price-controlled goods or price-controlled services which should have been made in the normal course of trade and the absence of which makes such document, record, book or account false or incorrect.

Penalty: As provided in section 18.

(3) This section does not affect any liability incurred by a person under any other law.

Refusal to sell or hire price-controlled goods

12. (1) It is an offence for a person who carries on a business, in the course of which any price-controlled goods are supplied, and who has in the person's possession a stock of such goods, to—

- (a) falsely deny that the person has such goods in the person's possession; or
- (b) refuse, except with the permission of the Controller or for some good cause, to supply such goods in reasonable quantities upon tender of immediate payment of the maximum price or maximum hire charge for them.

Penalty: As provided in section 18.

(2) For the purpose of enabling an intending purchaser or hirer to make a tender of immediate payment for goods under this section, the person in possession of such goods may be required by any intending purchaser or hirer to state in writing the maximum price or maximum hire charge of the goods in question.

General powers

13. (1) The Controller or any police officer of the rank of sergeant or above or any person authorised in writing by the Controller or such a police officer—

- (a) may enter and inspect any premises in the occupation or under the control of any trader, manufacturer, producer, commission agent, clearing and forwarding agent or other person supplying price-controlled goods or rendering price-controlled services;

- (b) having entered premises under paragraph (a), may -
- (i) examine any books, accounts or other documents relating to the trade or business of any trader, manufacturer, producer, commission agent, clearing and forwarding agent or other person supplying price-controlled goods or rendering price-controlled services found in the premises;
 - (ii) require a copy of any such book, account or other document or of the record of any transaction which ~~he~~ the Controller, police officer or authorised person has reasonable cause to believe relates to price-controlled goods or price-controlled services duly certified by the trader, manufacturer, producer, commission agent, clearing and forwarding agent or other person; and
 - (iii) require that any such book account or other document be deposited at the office of the Controller, police officer or authorised person for examination.

(2) Upon entering any premises pursuant to the powers conferred by ~~this~~ subsection (1)(a) the Controller, police officer or authorised person must before proceeding to exercise the powers conferred by subsection (1)(b) inform the person present on such premises who is or who reasonably appears to be for the time being in charge of such premises of the intention to exercise the powers under subsection (1).

(3) When any books, accounts or other documents are deposited pursuant to subsection (1)(b,) the person who has required the deposit of them —

- (a) must provide the owner of them with a receipt for them;
- (b) is responsible to the owner for the safe custody of them; and
- (c) must return them to the owner as soon as the purpose for requiring their deposit has been served.

(3A) Subsection (3)(c) does not affect any other law which authorises the retention by a police officer of books, accounts or other documents.

(4) Subsection (3) does not require any person to return or be responsible for the safe custody of any books, accounts or other documents which have been handed to the police or which have been produced as exhibits in proceedings before any court.

(5) The Controller, or any person authorised in writing by the Controller, may—

- (a) order in respect of any price-controlled goods, that, when exposed or offered for sale or hire, they must bear a mark or label specified in the order for the purpose of indicating their quality, grade, price or place of origin;
- (b) by order prohibit or regulate the sale, purchase or hire by any person of any price-controlled goods;
- (c) require any person who is in possession of any price-controlled goods in excess of the person's normal requirements as decided by the Controller to sell the goods to a person, in a manner, and at a price or charge directed by the Controller;
- (d) by order determine the place in which any price-controlled goods may be stored;
- (e) require any person who in the person's ordinary course of business renders price-controlled services, to render services to a person, in a manner, and at a charge directed by the Controller.

(6) The Controller may—

- (a) by public notice, or by a notice served upon or at the place of business of any

trader, manufacturer, commission agent or clearing and forwarding agent—

- (i) require in relation to price-controlled goods or price-controlled services that trader, manufacturer, commission agent or clearing and forwarding agent, from a date to be specified in the order, to endorse on any sales invoices any information, directions or other particulars specified in the notice;
 - (ii) require in relation to price-controlled goods or price-controlled services that such information, directions or other particulars must be declared to an intending purchaser, hirer or other person before any sale, hire or rendering of services;
- (b) do all other such acts, matters and things as the Controller considers necessary for the carrying out and enforcement of this Ordinance.

Offence to obstruct authorities

14. It is an offence for a person to—

- (a) obstruct any other person authorised by this Ordinance to enter and inspect any premises or to examine any books, accounts or other documents;
- (b) refuse or delay or fail to produce any books, accounts or other documents or certified copies or translations of them relating to the person's trade or business and which the person is required under this Ordinance to produce;
- (c) refuse to furnish any information or knowingly or without reasonable grounds for believing it to be true provide false information upon demand being made by a person authorised by this Ordinance to demand information; or
- (d) fail to comply with any order, requirement or notice lawfully given under this Ordinance.

Penalty: As provided in section 18.

Certificates

15. (1) The Controller may in writing certify—

- (a) the maximum price that has been fixed for any wholesale or retail sale of any price-controlled goods;
- (b) what constitutes a wholesale or retail sale, or what is a wholesale or retail quantity;
- (c) the maximum hire charge that has been fixed for the hire of any price-controlled goods;
- (d) the maximum service charge that has been fixed for any price-controlled services;
- (e) the maximum commission that has been fixed in respect of the sale, purchase or hire of any price-controlled goods or the rendering of any price-controlled services;
- (f) the total amount of the overcharge involved in any transaction;
- (g) the maximum profit allowed upon the sale of any price-controlled goods;
- (h) that any exemption or permission which may be given under this Ordinance by the Controller has or has not been given; and
- (i) that an order made under section 3(1) has been displayed in a prominent position in the district or districts to which the order applies.

(2) In any proceedings instituted in any court under this Ordinance -

- (a) any fact certified by the Controller under subsection (1) or purporting to be so certified is admissible without further proof as *prima facie* evidence of the fact so

- certified;
- (b) the certificate of the Controller as to what constitutes a wholesale or a retail sale, or as to what constitutes a wholesale or a retail quantity, in respect of the subject matter of the proceedings, is final and conclusive.

Burden of proof

16. (1) In any proceedings in any court for an offence against this Ordinance the production by the Controller, or any person authorised by the Controller in writing, or by any police officer, of an original invoice, a duplicate invoice purporting to have been found in the possession of the seller, or a copy of such invoice certified by the Controller or by the seller, is *prima facie* evidence of a sale by the seller and of all the facts contained in such invoice, duplicate invoice or certified copy.

(1A) If the prosecution relies upon the falsity of the contents of an invoice, duplicate invoice or certified copy, the invoice, duplicate or copy is *prima facie* evidence of such falsity, and, notwithstanding any other law in force in St Helena or of any rule of practice in the courts of St Helena, the burden of proving that any sale did not take place or that any fact contained in the original invoice, the duplicate invoice or certified copy is not what it purports to be, or that the contents of it are not false, lies upon the defendant.

(1B) For the purposes of subsections (1) and (1A), “**sale**” includes the rendering of a service.

(2) In any proceedings in any court in St Helena for an offence against this Ordinance, the prosecutor may, notwithstanding the provisions of any other law in force in St Helena or of any rule of practice in the courts of St Helena, call evidence in rebuttal of any evidence given by the defence.

(3) In any proceedings against a person for an offence against section 8 in relation to any goods, it is not a defence that—

- (a) the defendant had purchased the goods at a price which in fact exceeds the maximum price of them under this Ordinance; or,
- (b) any invoice or other document showing the price at which the goods were sold was endorsed to the effect that no responsibility could be accepted in respect of any error or omission in the invoice, or document, or was endorsed with the letters “E & O. E.”, or any other symbols or letters of a like nature indicating that the statements in such invoice or documents were subject to correction.

Protection against liability in certain cases

17. (1) No proceedings may be instituted under this Ordinance against any person duly authorised by the Controller who has -

- (a) knowingly purchased price-controlled goods at a price in excess of the maximum price;
- (b) paid a charge for the hire of price-controlled goods in excess of the maximum hire charge; or
- (c) paid a charge for a price-controlled service in excess of the maximum service charge,

with the intention of procuring evidence for the purpose of prosecuting the seller or hirer or

person rendering the price-controlled service for an offence against this Ordinance.

- (2)** No proceedings may be instituted against any person who knowingly-
- (a)* purchases price-controlled goods at a price in excess of the maximum price;
 - (b)* pays a charge for the hire of price-controlled goods in excess of the maximum hire charge;
 - (c)* pays a charge for a price-controlled service in excess of the maximum service charge for an offence against this Ordinance in respect of such purchase,

if the person notifies the Controller of the transaction within 7 days from the date of the transaction, or within any longer period Controller, in his or her discretion, allows.

Penalties

18. **(1)** Any person, other than a corporate body, but including a director or officer of such a body, who commits an offence against this Ordinance is liable, if no other penalty is specifically provided for the offence -

- (a)* on first conviction, to a fine of £100 or to imprisonment for 6 months or both;
- (b)* on a second or subsequent conviction, to a fine of £500 or imprisonment for 2 years, or both.

(1A) **If** the offence in respect of which any person is convicted is an offence against section 8(1) -

- (a)* the person is, in addition to any other penalty which may otherwise be imposed, liable to a fine of not less than 5 times the value of the overcharge, and
- (b)* the court may, in its discretion, order that there is to be paid out to the purchaser a sum that in the opinion of the court serves to compensate the purchaser for the loss of time and expenses which the purchaser has incurred.

(2) A corporate body that commits an offence against any provisions of this Ordinance is liable on first conviction to a fine of £200 and on a second or subsequent conviction to a fine of exceeding £1,000.

(3) If a person charged with an offence against this Ordinance is a corporate body or a firm or an association of individuals -

- (a)* every person who, at the time of the commission of the offence, was a director or officer of the corporate body or a partner or officer of the firm or a person engaged in the management of the affairs of the association may be charged jointly in the same proceedings with the corporate body, firm or association; and
- (b)* if the corporate body is convicted of the offence every such director, officer, partner or other person commits that offence unless the director, officer, partner or other person proves that the offence was committed without his or her knowledge or that he or she exercised all due diligence to prevent the commission of the offence.

(4) Any employer who employs in his a shop, store or other place of business any agent, clerk, servant or other person is answerable for the acts or omissions of such agent, clerk, servant or other person in so far as they concern the business of that employer; and if such agent, clerk, servant or other person commits any act or makes any omission which is an offence against this Ordinance, or which would be an offence if made or committed by the

employer, the employer and the agent, clerk, servant or other person are jointly and severally liable to the penalties provided by this Ordinance.

Exception

19. Nothing in this Ordinance applies to a contract entered into in St Helena with the sanction of the Governor for the supply, whether within St Helena or elsewhere, of any goods produced in St Helena.

Exclusion of price-controlled goods or price-controlled services

20. If, in the opinion of the Controller, the application of any specific provision of this Ordinance to any price-controlled goods or price-controlled service is or is likely to be detrimental to the public interest, the Controller may by order for a period and subject to conditions the Controller thinks fit, exclude such goods or services from the application of any of the specified provisions of this Ordinance.

Making and proof of orders, etc.

21. (1) Any order, requirement or notice issued or any exemption or permission granted by the Controller under this Ordinance may, if no other method is expressly provided in the Ordinance, be communicated to the public or the person or persons by whom it is intended to be obeyed by public notice, or by a letter addressed to the person at the person's last known address or place of business.

(2) The production in any court of a copy of the public notice containing any such order, requirement or notice as mentioned in subsection (1), or of a copy of it certified by the Controller, together with proof of the exhibition of the public notice or the writing and delivery of the letter, is *prima facie* evidence without further proof of the contents of the order, requirement or notice and of its having been communicated to that person or those persons, until the contrary is shown, and the order, requirement or notice is deemed to have been communicated to the person or persons upon the date of publication or delivery as the case may be.

Cancellation of exemption

22. The Controller may at any time and without assigning any reason, cancel or vary any exemption or permission which the Controller has granted under this Ordinance.

Regulations

23. The Governor in Council may make regulations prescribing anything which is to be or may be prescribed under this Ordinance, and for the better carrying into effect of the purposes and provisions of this Ordinance.
