



Tuvalu

PRICE CONTROL ACT

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CAP. 40.40



Tuvalu

PRICE CONTROL ACT

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Tuvalu

PRICE CONTROL ACT

AN ACT TO ESTABLISH THE PRICE CONTROL BOARD FOR CONTROLLING PRICES, AND FOR CONNECTED PURPOSES¹

Commencement [22 August 1991]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Price Control Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**Board**” means the Price Control Board established under section 3;

“**retailer**” means a person who in the course of his business sells commodities to a consumer;

“**wholesaler**” means a person who sells or supplies commodities to another for the purpose of resale or for use by such other person in the course of his business;

“**price**” includes a charge of any description;

“**commodity**” includes any goods or service.

PART II - ESTABLISHMENT OF PRICE CONTROL BOARD

3 Establishment of Board

- (1) There is hereby established a board to be known as the Price Control Board.
- (2) The Board —
 - (a) shall be a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) may sue or be sued in respect of matters, whether relating to contract, tort or otherwise, arising in connection with the exercise of its powers or the carrying on of its functions under the provisions of this Act.

4 Composition of Board

- (1) The Board shall consist of three members being the Registrar of Co-operatives who shall be the Chairman and the following members appointed by the Minister for a term not exceeding 5 years:
 - (a) a representative of retailers; and
 - (b) a representative of consumers.
- (2) All orders made by the Board shall be given under the hand of the Chairman.
- (3) In the exercise of its functions under this Act the Board shall act in accordance with any general or special directions as to the policy to be followed by it issued by the Minister and published in the Gazette.

5 Conflict of interest

Each member of the Board shall fully declare to the Board any financial or other interest which he may have in any subject under consideration by the Board.

PART III - POWERS OF THE BOARD

6 Powers of the Board

- (1) The Board shall with the approval of the Minister by order regulate the price for sale by retail of the commodities listed in the Schedule, either generally or in any part of Tuvalu specified in the order.
- (2) The Minister may from time to time by order add commodities to or delete commodities from the Schedule.
- (3)

- (a) The Board may call any person to give information or any explanation or to produce records or documents which the Board may require in performing its duties; and the Board may call any other person to assist the Board with such information, explanation, records or documents.
- (b) Any person wilfully refusing to comply with a lawful request of the Board commits an offence and shall be liable on conviction to a fine of up to \$1,000.

7 Limitation

In determining whether and in what manner to exercise the powers conferred by section 6, the Board and the Minister shall have regard to the circumstance of the trade in the commodity to which the order will apply and to the effect of an order on the profitability of that trade.

8 Price Inspectors

- (1) The Board with the approval of the Minister may appoint suitably qualified persons to act as price inspectors for the purposes of this Act and in particular —
 - (a) to report to the Board any breaches of the provisions of this Act or any regulations or orders made thereunder;
 - (b) to institute, prosecute and conduct any legal proceedings in respect of any alleged offence against this Act or any regulation or order made thereunder.
- (2) On production of his credentials and for the purpose of determining whether an offence has been committed, a price inspector may seize and detain any documents or commodities which he has reason to believe may be required as evidence in proceedings for such an offence.
- (3) Any person who —
 - (a) wilfully obstructs a price inspector in pursuance of his powers under this Act or any regulation or order made thereunder;
 - (b) without reasonable cause fails to give a price inspector any other assistance or information which he may reasonably require for the performance of his functions,shall be guilty of an offence.

PART IV - CONTROL OF PRICES

9 Fixing the maximum price

Without limiting the generality of section 6(1) an order made under that section may —

- (a) prescribe a maximum price for the sale of the commodity;
- (b) make provision whereby the price to be charged on a sale by retail is not to exceed the buying price charged to the retailer by more than a margin determined in accordance with the order;
- (c) make different provision in relation to different circumstances.

10 Proportionate Prices

Where the quantity of the commodity sold or offered for sale is greater or less than the quantity specified in an order made under section 6(1) such commodity shall, subject to any express provision to the contrary in the order, be sold or offered for sale at the proportionately increased or diminished price as the case may be.

11 Variation of order

The Board may with the approval of the Minister by order or by notice to any trader cancel or vary an order made under section 6(1) or exempt any commodity from such an order.

PART V - MISCELLANEOUS

12 Prohibited acts

No person shall —

- (a) sell or attempt to sell a commodity to which an order made under section 6(1) applies at a greater price than that prescribed by the order;
- (b) in the course of business apply different methods of fixing or ascertaining the prices of a commodity to which an order under section 6(1) applies with intent to evade the provisions of this Act or any regulation or order made thereunder.

13 Penalties

- (1) Any person who fails to comply with the provisions of this Act shall be subject to the following order of penalties:

- (a) Non-Compliance Notice, as provided under Schedule 2; or
 - (b) Fixed Penalty Notice up to the value of \$1,000, as provided for under Schedule 2; or
 - (c) Liable upon conviction of a fine up to \$2,000.²
- (2) Where an offence under this Act committed by a body corporate is proved to have been committed with the knowledge, consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar official of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be liable to be proceeded against and on conviction shall be liable accordingly.

14 Regulations

The Minister may make regulations generally to carry into effect the purposes of this Act and in particular —

- (a) to provide for the keeping by wholesalers and
- (b) to secure that prices are indicated on or in relation to commodities offered or exposed for sale by retail;
- (c) to provide for the financing, accounting, reporting and audit of the Board.

15 Excess price recoverable

A transaction shall not be invalid by reason only that it involves an offence under this Act; but the person paying a price in excess of that prescribed by an order made under section 6(1) shall be entitled to recover from the retailer the excess of any price so paid by him over such price unless he himself has aided, abetted or procured the commission of the offence.

16 Crown to be bound

This Act shall bind the Crown.

17 Confidentiality

- (1) Any information relating to a business which is supplied to the Board or its employees shall be treated as confidential and shall not be disclosed unless the person supplying the information consents or such disclosure is necessary for the purposes of this Act.
- (2) Any person contravening the foregoing subsection shall be guilty of an offence and shall be liable on conviction to a fine of up to \$1000.

18 Immunity

No legal proceedings shall be competent for any loss or damage that may result from anything done under this Act.

SCHEDULE 1**List of Commodities to be Price controlled:³**

1. Rice
2. Flour
3. Sugar
4. Biscuit (Cabin)
5. Cooking gas
6. Petrol (Benzine)
7. Bar soap
8. Bathing/Toilet soap, and Toilet paper
9. Powder soap
10. Detergents
11. Edible oils of all types
12. Canned corned beef and corned mutton
13. Butter (all types)
14. Milk powdered, evaporated or condensed
15. Coffee
16. Tea
17. Milo
18. Building materials:
 - (i) Cement
 - (ii) Timber
 - (iii) Paint
 - (iv) Roofing iron
19. Fish and fish products
20. Fruits and vegetables – including taro, cassava both fresh and frozen.

SCHEDULE 2

FORM 1 - NON-COMPLIANCE NOTICE

(Section 13(1)(a))

DATE OF NOTICE: _____

NAME OF BUSINESS OR OWNER: _____

ADDRESS: _____

Your Business/Company, _____, has been found to be in violation of the Price Control Act, on this ____ day of _____ 20____, by increasing the prices of the following commodities beyond the percentage threshold prescribed by the Price Control Order

NAME OF GOODS	PRICE CEILING UNDER PRICE CONTROL ACT	EXCESS IN PRICE

(*Add list to another page if necessary)

This notice requires your Business to reduce the prices of the listed commodities to a price within the percentage threshold prescribed under the Price Control Order, within thirty (30) clear days from the date of the Notice.

Failure to comply with this Notice will result in your Business facing a Fixed Penalty Notice upon which you are required to pay a penalty fine of \$1,000.

FORM 2 - FIXED PENALTY NOTICE

(Section 13(1)(b))

DATE OF NOTICE: _____

NAME OF BUSINESS OR OWNER: _____

ADDRESS: _____

Your Business/Company, _____, has failed to observe the Non-Compliance Notice issued to you on the ____ day of _____ 20____, within 30 clear days from the date of the Non-Compliance Notice.

This Notice imposes a fixed penalty of \$1,000 for failure to comply with the Non-Compliance Notice. Your Business must pay the penalty fine of \$1,000 within thirty (30) days from the date of this Notice.

Payment of the fine shall be made to the Government Cashier at Ground Floor of the Government Building, Vaiaku, Funafuti.

Failure to comply with the Fixed Penalty Fine of \$1,000 will result in Court proceedings and penalty fine or imprisonment upon conviction.

ENDNOTES

¹ Act 2 of 1991

Amended by Act 11 of 2020, commencement 24 December 2020

² Amended by Act 11 of 2020

³ Amended by Act 11 of 2020