

SUBSIDIARY LEGISLATION 117.15**CONTROL ON THE SALE OF COMMODITIES
REGULATIONS**

19th April, 1972

LEGAL NOTICE 21 of 1972, as amended by Legal Notices 34 and 50 of 1972, 20 and 115 of 1973, 24 and 83 of 1974, 12 and 75 of 1975, 87 and 127 of 1976, 16, 33 and 135 of 1977, 6 of 1978, 86 and 108 of 1979, 56 of 1980, 62 and 66 of 1982, 54 of 1984, 7 of 1989, 89 of 1990, 61 and 125 of 1992, 192 of 1994, 104 of 1998, 295 of 2002 and 409 of 2007.

1. The title of these regulations is Control on the Sale of Commodities Regulations. Title.

2. (1) In these regulations, and in any order made thereunder, unless the context otherwise requires -

"Act" means the Supplies and Services Act;

"commodity" means any article which is ordinarily sold to the public, but does not include any produce which is cultivated or grown locally by a farmer or is derived from local husbandry, nor imported fruit or vegetables or imported fresh fruit;

"C.I.F. value" means and shall be deemed to have always meant the C.I.F. value in euro established for Customs purposes or for import duty purposes;

"Director" means the Director of Trade and, to the extent he is so authorised, includes any person authorised by the Director of Trade to exercise any the powers and duties conferred on the Director by these Regulations;

"fixed" in relation to a price, means fixed in accordance with these Regulations;

"Gazette" means the Malta Government Gazette;

"Minister" means the Minister responsible for trade;

"purchase" means the acquisition of any commodity by any onerous title but does not include the importation of goods from any place abroad;

"sale" includes any disposal under any onerous title whatsoever;

"trader" includes any wholesaler, retailer, manufacturer, importer or the person who deals or is concerned in or performs any act of commerce relating to the sale, manufacture, exchange or disposal of commodities.

(2) For the purposes of these regulations, the price of a commodity shall be deemed to be unreasonable if -

- (a) in respect of a sale by a local manufacturer or an importer to a wholesaler, the profit exceeds ten per cent of the ex-factory price or the import duty paid cost of the commodity as provided in regulation

Interpretation.
Amended by:
L.N. 127 of 1976;
L.N. 62 of 1982;
L.N. 125 of 1992;
L.N. 409 of 2007.
Cap. 117.

3(3)(i);

(b) in respect of a sale by a local manufacturer or an importer to a retailer, the profit exceeds fifteen per cent of the ex-factory price or the import duty paid cost of the commodity as provided in regulation 3(3)(i);

(c) in respect of a sale by a wholesaler to a retailer, the profit exceeds ten per cent of the price at which the wholesaler purchased the commodity without the addition of any charge;

(d) in respect of a sale by a retailer to a consumer, the profit exceeds twenty per cent of the price at which the retailer purchased the commodity without the addition of any charge.

Fixing of maximum price.
Amended by:
L.N. 66 of 1982;
L.N. 54 of 1984.

3. (1) The Director may, from time to time, by order in the Gazette, fix the maximum price at which any commodity may be sold.

(2) Prices may be so fixed by the Director using any one or more of the following methods -

(a) fixing stated maximum prices;

(b) fixing maximum margins of profit;

(c) fixing maximum percentages of profit.

(3) In the case of orders made in accordance with paragraphs (b) or (c) of sub-regulation (2) -

(i) the profit of the importer shall be calculated on the aggregate of the C.I.F. value and import duty of the commodity, and no further addition, such as charges for landing, transport, storage, interest or any other charge whatsoever, shall be made for the purpose of ascertaining the cost; and

(ii) the profit of the retailer shall be calculated on the price at which the commodity shall have been purchased from the importer, wholesaler or local manufacturer, without the addition of any charge whatsoever.

For the purposes of paragraph (i) of this sub-regulation, where the C.I.F. value is expressed in foreign currency, such value shall be calculated at the rate determined daily by the Central Bank of Malta for the computation of customs duty in accordance with the Import Duties Act, on the date of importation.

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(4) In respect of particular parcels or consignments of commodities, the Director may, at his absolute discretion, fix the maximum prices on the certificate of costing submitted by the importer as provided in regulation 21.

- 4.** The Director may by order, in respect of any commodity, impose any such condition as he may deem fit with regard to its sale, prohibition of sale or limitation of sale.
- Imposition of conditions by Director.
Substituted by:
L.N. 89 of 1990.
- 5.** *Repealed by Legal Notice 295 of 2002.*
- Price labels on samples.
Amended by:
L.N. 104 of 1998.
- 6.** When the maximum price of any commodity is fixed in accordance with the provisions of these regulations, the price shown on the label referred to in regulation 5 shall not exceed such price.
- Price on label not to exceed maximum price.
- 7.** (1) Every person shall, if so required by the Director or by any member of the Police or by any person appointed under article 4 of the Act, or by any member of a body of persons so appointed, produce on demand for examination any invoice or other document (including books) in his possession, relating to the purchase, manufacture, production or sale of any commodity.
- Showing of invoice, etc., for examination.
Substituted by:
L.N. 62 of 1982.
Cap. 117.
- (2) Certificates of costings and related invoices or documents are to be retained by local manufacturers/importers/wholesalers/retailers for a period of two years from their date of issue or until the commodities to which they relate are sold, whichever is the later.
- (3) Where any invoice or other document produced for examination as required by this regulation is false or misleading or does not represent the true facts in any material respect, the person so producing it and any person responsible for the drawing up of such invoice or document or for the making of the false, misleading or untrue entry therein, shall be guilty of an offence against these regulations.
- 8.** A trader in possession of stocks of any commodity which he does not expose for sale in his place of business or keep therein in sufficient quantities to meet the daily demands shall be deemed to be hoarding or refusing to sell and shall be guilty of an offence against these regulations.
- Hoarding of commodities.
- 9.** (1) No trader shall store foodstuffs, or any other goods as may be specified by the Director from time to time by order in the Gazette, in any warehouse or other building or place unless he is in possession of a special licence issued by the Director permitting such storage therein.
- Storage of foodstuffs and other goods.
Added by:
L.N. 24 of 1974.
Amended by:
L.N. 127 of 1976.
- (2) The Director may attach to any such licence any condition or conditions as he may deem fit.
- (3) Any person who in any way helps a trader to contravene sub-regulation (1) shall be guilty of the same offence as the trader.
- 10.** (1) Every importer and every wholesaler of a commodity to which this regulation applies shall, on the first working day of every month, not being a Saturday, deliver to the Director a return, on such form as the Director may from time to time determine and which shall be obtainable from the office of the Director, containing a correct and fair statement of the information specified in sub-regulation (2).
- Return.
Added by:
L.N. 108 of 1979.

(2) The information required to be given by sub-regulation (1) is:

- (i) amounts imported or purchased during the period between one return and the one immediately following together with details of suppliers and quantities purchased therefrom;
- (ii) sales made during the said period;
- (iii) stocks held at the end of the said period;
- (iv) places of storage where such stocks are held and the quantities of stocks held in each such place.

(3) The commodities to which this regulation applies are -

Cattle on the hoof, imported

Beef, frozen

Pork, frozen

Canned Ham

Corned Beef

Luncheon Meat

Milk, tinned

Butter

Cheese -

Cheddar

Emmenthal

Edam

Canned fish -

Tuna

Mackerel

Rice

Fruit, imported -

Oranges

Bananas

Apples

Pears

Potatoes, imported

Sugar

Coffee

Tea

Soya bean oil, crude

Timber -

White Deal

Red Deal

Mahogany and substitutes

Cement.

(4) For the purposes of this regulation stocks shall be deemed

to be held by a person if they are owned by him, or are in his possession or under his control or within his power to dispose of or deliver, even if they are so held for or on behalf of another person.

11. (1) No trader may purchase any commodity from any person not known to him.

Purchase and sale of commodities.

(2) No manufacturer, importer, or wholesaler shall, without reasonable cause, refuse to sell in reasonable quantities to any retailer any commodity required in connection with the latter's trade or business.

(3) No retailer shall without a reasonable cause refuse to sell to any customer any commodity in quantities reasonably required for the normal use and consumption of the customer or his household or of his establishment or occupation or calling:

Provided that the Commissioner of Police may exempt from this provision in respect of any shop where wine, beer or spirits are consumed on the premises, or of any restaurant, if he is satisfied that such exemption should be granted to provide a higher standard of amenities for tourists or other visitors or customers.

(4) Nothing in this regulation shall prevent any consumer from making direct purchases from a wholesaler authorised so to sell by the terms of his licence

12. (1) Any person licensed to sell groceries, who at any time during any one year kept for sale one or more of the commodities to which this regulation applies, shall be guilty of an offence if he at any time thereafter fails to keep stocks of any of the said commodities in sufficient quantities to meet reasonable demands of customers.

Stocks of certain commodities.
Added by:
L.N. 12 of 1975.
Amended by:
L.N. 62 of 1982.

(2) This regulation applies to such commodities as may from time to time be specified by the Director by order in the Gazette.

13. No trader shall, in selling or offering for sale any commodity, impose any condition in connection with such sale other than the charging of the proper price and any such condition as the Director may impose.

Conditions in connection with sale.

14. It shall not be lawful, except in accordance with a normal trade practice in Malta, for a trader or a group of traders to enter or induce another trader or traders to enter into any undertaking, agreement, contract or other instrument which in any way purports to limit, restrict or otherwise control the sale, the price and/or the conditions of sale of any commodity or commodities.

Prohibited agreements, etc.

15. Any trader who closes his shop or store without a just cause shall be deemed to be refusing to sell and shall be guilty of an offence against these regulations.

Closing of shop.

16. (1) Manufacturers, importers and wholesalers shall deliver to every person purchasing any commodity a detailed receipted bill or, as the case may be, an invoice, showing the number and date of the applicable certificate of costings, if any, the date of the transaction, the quantity sold, the price at which the sale has been made and the maximum price at which the commodity may be sold

Invoice, etc., to contain certain details.
Amended by:
L.N. 62 of 1982.

to the consumer, which prices shall not exceed the prices fixed or allowed under these regulations.

(2) Manufacturers, importers and wholesalers shall keep a book with proper records of the quantities of any commodity sold, to whom it has been sold and the relative price.

(3) No retailer shall resell any commodity obtained from a manufacturer, an importer or from a wholesaler unless he is in possession of the invoice or receipted bill referred to in sub-regulation (1).

(4) The retailer shall ascertain that the maximum price at which any commodity is sold to the consumer does not exceed the price fixed or allowed under these regulations, and for this purpose the wholesaler or the importer, as the case may be, shall if so requested, produce to the retailer the relative documents for perusal.

Director may
require returns.
Amended by:
L.N. 108 of 1979;
L.N. 62 of 1982.
Substituted by:
L.N. 7 of 1989.

17. (1) The Director may at any time, either generally or in one or more specific cases, either by order published in the Gazette or by letter addressed to the trader to whom it refers, require any trader to furnish him with such returns, documents and information as the Director may specify, in such form and within such time as he may specify in the request.

(2) Any trader who fails to make such return, or to furnish such information or documents, or who makes the return or furnishes the information or documents after the lapse of the specified time, or who in making such return or in furnishing such information or documents gives any information which is incorrect or misleading, shall be guilty of an offence against these regulations.

Sales, etc., above
maximum price.
Amended by:
L.N. 24 of 1974.
Substituted by:
L.N. 192 of 1994.

18. (1) No person shall mark, offer for sale, sell or attempt to sell any commodity above the maximum price fixed in respect of that commodity or at an unreasonable price where no maximum price is fixed.

(2) When no maximum price is fixed, any extra charge made in respect of any commodity shall be taken into account in determining whether the total price charged is a reasonable price.

(3) In determining the reasonable price of any commodity, when no maximum price has been fixed, no account shall be taken of any sale, purchase or other transaction which contravenes any regulation for the time being in force.

(4) Any profit exceeding the margin or percentage of profit allowed under these regulations shall be conclusively deemed to render the price charged or demanded unreasonable.

Possession of false
weights, measures,
etc.
Added by:
L.N. 33 of 1997.
Substituted by:
L.N. 135 of 1977.

19. Any trader who has in his possession or under his control any weight or measure or any weighing or measuring instrument or equipment which is false or which does not represent or show the true and real weight or measure, as the case may be, shall be guilty of an offence against these regulations, and the court shall on conviction, besides awarding the punishment applicable under these regulations, order the forfeiture of any such weight or

measure or weighing or measuring instrument or equipment.

20. (1) Any trader whose licence has been suspended shall be debarred from the exercise of his trade or business, either generally or to such extent only as specified in the suspension order.

Suspension of licence.
Amended by:
L.N. 6 of 1978.

(2) There shall be affixed to the door of the place or places of business of any trader whose licence has been suspended a notice to the effect that such licence has been suspended and such notice shall remain so affixed for the duration of the period of suspension.

(3) It shall not be lawful for any person to remove, cover, alter or otherwise deface any notice of suspension so affixed.

(4) No person shall, whether directly or indirectly, supply any trader whose licence has been suspended any commodity to which the suspension relates, except for the personal use of such trader and his family.

21. (1) No imported commodity shall be released by an importer or wholesaler to any person before the relative certificate of costings has been submitted to, and approved by, the Director.

Approval by Director of certificate of costings prior to release of imported commodities.
Amended by:
L.N. 62 of 1982.

(2) Certificates of costings shall be drawn up by the importer and submitted to the Director not later than forty-eight hours after the goods have been withdrawn out of Customs control, on forms obtainable at the office of the Director:

Provided that the Director may, in special cases, extend the said period of forty-eight hours if he is satisfied that the importer cannot comply with the provisions of this regulation within the said time.

(3) The Director may in his discretion exempt any commodity of commodities, or any class or classes of commodities, from the requirements of this regulation.

(4) The provisions of this regulation shall not apply to any commodity the maximum price of which is at the time of the release fixed in the manner specified in regulation 3(2)(a).

(5) If any certificate of costings, or any document accompanying it, submitted under this regulation is false, misleading or otherwise incorrect in any material respect, the person submitting it and any person responsible for the drawing up thereof shall be guilty of an offence against these regulations.

22. (1) No locally manufactured commodity to which this regulation applies shall be released by a manufacturer to any person before the relative certificate of costings has been submitted to, and approved by, the Director, in such form and manner as the Director may require.

Costings of locally manufactured goods.
Substituted by:
L.N. 62 of 1982.

(2) This regulation shall apply to such commodities as are from time to time specified by the Director by order published in the Gazette.

23. Every retailer shall display prominently in his shop premises any notice which the Director may ask him to display in connection with the sale of any commodity.

Displaying in shop of notice at the request of Director.

Price list at door of restaurants.

24. At the door of every restaurant, with the exception of such restaurants as from part of a hotel and which are not open to non-residents, there shall be exhibited a menu and price list in such a place and of such dimensions that they may be easily and clearly read by members of the public without the need of entering therein:

Provided that this provision shall not apply in respect of commodities offered for sale but not intended for consumption therein or thereat.

Oath.
Added by:
L.N. 127 of 1976.

25. Any person authorised by the Director of Trade to exercise any of the powers and duties conferred on the Director by these Regulations may be required by the said Director to take the following oath before a Commissioner for Oaths:

I, solemnly swear/affirm that I shall perform my functions in terms of the Sale of Commodities (Control) Regulations, faithfully and to the best of my ability, and shall not disclose to unauthorised persons any information which comes to my knowledge during the performance of the said functions. (So help me God).

Penalties.
Amended by:
L.N. 20 of 1973;
L.N. 24 of 1974;
L.N. 83 of 1974;
L.N. 12 of 1975;
L.N. 75 of 1975;
L.N. 127 of 1976;
L.N. 16 of 1977;
L.N. 33 of 1977;
L.N. 108 of 1979;
L.N. 56 of 1980;
L.N. 62 of 1982;
L.N. 409 of 2007.
Cap. 9.

26. (1) Any person who contravenes or fails to comply with any of these regulations or any order made under these regulations or otherwise imposed by these regulations or any condition attached to any licence issued under these regulations shall be guilty of an offence against these regulations.

(2) Offences against these regulations shall be deemed to be contraventions.

(3) The provisions of the Criminal Code relating to criminal proceedings shall, subject as hereinafter stated, apply in respect of proceedings for offences against these regulations:

Provided that proceedings in respect of an offence against these regulations may be commenced at any time within one year from the commission of the offence.

(4) Any person guilty of an offence against these regulations shall be liable -

- (a) on a first conviction, to a fine (*multa*) of not less than one hundred and sixteen euros and forty-seven cents (116.47) but not exceeding five hundred and eighty-two euros and thirty-four cents (582.34);
- (b) on a second conviction, to a fine (*multa*) of not less than two hundred and thirty-two euros and ninety-four cents (232.94) but not exceeding one thousand and one hundred and sixty-four euros and sixty-nine cents (1,164.69) so however that if the second offence is committed within twelve months from the first conviction the offender shall be liable to the penalty contained in paragraph (c) of this sub-regulation;
- (c) on a further conviction, to a fine (*multa*) of two thousand and three hundred and twenty-nine euros and

thirty-seven cents (2,329.37):

Provided that where the offence is one as is provided in regulation 7(3) or in regulation 21(5), or consists in giving information which is incorrect or misleading as provided in regulation 17(2), the Court may, and if so requested by the prosecution shall, in addition to any other punishment, sentence the offender to imprisonment for a term of not less than ten days and not exceeding six months.

(5) In addition to the punishments laid down in the foregoing provisions of this regulation, the Court shall, on the demand of the prosecution -

- (a) in the case of a second conviction, order the suspension of the offender's licence for a period of not less than one week and not more than three months; and
- (b) in the case of a further conviction, order the cancellation of any licence held by the offender and relating to any trade or business and of any licence relating to the premises to which the offence relates.

(6) In every case of conviction for an offence against these regulations, the Court may, and if so requested by the prosecution shall, order the forfeiture of the commodities to which the offence relates.

(7) The suspension of the licence ordered by the Court shall have effect from such date, being a date within eight days from the date of the sentence, as the prosecuting officer may specify orally to the Court during the proceeding.

(8) The provisions of the Probation Act, shall not be applicable in respect of any offence against the provisions of these regulations.

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(9) The court by which a person is found guilty of an offence against these regulations consisting in the selling of any commodity at an unreasonable price or at a price higher than the maximum price of that commodity shall order the offender to refund to the person to whom the commodity has been sold such portion of the price charged as the court shall fix or such amount as was in excess of the maximum price fixed, as the case may be, within such time not exceeding one month, as the Court shall prescribe, under a penalty of not less than four euros and sixty-six cents (4.66) for each day of default in case of non-compliance with such order within the time fixed, saving the right of the person to whom the refund is due to recover the amount by civil process before the competent Court, for which purpose the order for the refund made by the Court of Magistrates shall constitute an executive title and may be enforced by the creditor after two days following the service on the debtor of a demand for payment made by a judicial act.

- Cap. 249. (10) Where an offence against these regulations is committed by an individual acting in the name, or on behalf or in the interest of a partnership or an association or other body or group of persons, or where action is taken against an individual by virtue of his liability as a director, manager, secretary or other similar officer of such body, association or group as provided in article 13 of the Interpretation Act, or by virtue of any liability under article 10 of the Act, and it results that an offence against these regulations has occurred, the provisions of this regulation relating to the suspension or cancellation of any licence held by the offender or other person as aforesaid shall apply also to any licence held by or in the name, or on behalf or in the interest of the partnership, association or other body or group of persons of which the offender or other person as aforesaid is a director, manager, secretary or other officer or in whose name or interest or on whose behalf such person was acting, and such licence shall equally be suspended or cancelled accordingly.
- Trader to be responsible for offences by employees, etc.
Added by:
L.N. 62 of 1982.
27. Every trader shall take all such steps as are required to ensure full compliance with all the provisions of these regulations; and even where any contravention of or non-compliance with any provision of these regulations may be attributed to any person in the employment of such trader or in the exercise of any act or function authorised or permitted by the trader, such trader shall also be guilty of that offence unless he proves that he took all reasonable steps to prevent the commission of the offence.
- Fixed prices. 28. All prices lawfully fixed prior to the coming into force of these regulations shall remain in force until varied or revoked under these regulations, and shall be deemed to have been fixed under the relative provision of these regulations.
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