

EXTRAORDINARY  
**GOVERNMENT OF FIJI GAZETTE SUPPLEMENT**

No. 38

WEDNESDAY, 16th DECEMBER

2015

[LEGAL NOTICE NO. 101]

COMMERCE COMMISSION DECREE 2010  
 (DECREE NO. 49 OF 2010)

**Commerce (Price Control) (Control of Prices for  
 Food Items) Order 2015**

In exercise of the powers conferred upon me by section 44 of the Commerce Commission Decree 2010, the Commerce Commission, with the approval of the Minister, hereby makes this Order—

*Short title and commencement*

1.—(1) This Order may be cited as the Commerce (Price Control) (Control of Prices for Food Items) Order 2015.

(2) This Order is deemed to have come into force on 30 September 2015.

*Interpretation*

2.—(1) In this Order, unless the context otherwise requires—

“Commission” means the Fiji Commerce Commission established under section 7 of the Commerce Commission Decree 2010;

“delivery cost” means the cost incurred in the delivery of the goods to a retailer’s or re-wholesaler’s premises;

“manufacturing” means the conversion of the unfinished products into finished products by means of manual labor or machinery;

“offer” includes exposing, displaying or keeping goods for sale by retail;

“package” means—

(a) the outermost receptacle, container or wrapper in which any price controlled item is encased, covered, enclosed, contained or packaged for the purpose of sale by retail; or

(b) if for retail sale there is provided a transparent outer cover or wrapper enclosing or covering a receptacle, container or wrapper, the receptacle container or wrapper that is so enclosed or covered;

“price-controlled item” means an item specified in the Schedule;

“related entity” means any of the following—

(a) a director or a member of that body or of the related body corporate;

(b) a relative or *de-facto*, spouse of such a director or member;

- (c) a relative of a spouse, or of a *de-facto* spouse, of such director or member;
- (d) a body corporate that is related to the first mentioned body;
- (e) a beneficiary under a trust of which the first mentioned body is or has at any time been a trustee;
- (f) a relative or *de-facto*, spouse of such beneficiary;
- (g) a relative of a spouse, or of a *de-facto* spouse, of such beneficiary;
- (h) a body corporate one whose directors is also a director of the first mentioned body; or
- (i) a trustee of a trust under which a person is a beneficiary, where the person is a related entity of the first-mentioned body because of any other application or applications of this definition;

“re-wholesaler” means any person who purchases goods from the wholesaler for resale other to a consumer;

“total into-store cost for pricing” means the cost calculated in accordance with the formula and provision as determined by the Commission;

“trader” means any person who in connection with any business carried on by him or her, sells, has sold, or proposes to sell any good, or who supplies or who carries on any service; and

“VAT” means Value Added Tax.

(2) A reference in this Order to the cost to a trader of any good or service includes a delivery cost properly incurred by the trader and not otherwise included in the calculation of the cost and is a reference to the lesser of the following—

- (a) the cost to the trader, as evidence by the invoice for the transaction; or
- (b) the cost which would probably have been incurred for the provision of the same goods and services under similar conditions in the ordinary course of business, had the goods or services been obtained from an independent person usually engaged in the business of providing those goods or services.

(3) In the case of an importer of goods into Fiji, the total into-store cost for pricing formula applies whether or not the importer takes physical possession of the goods.

(4) For the purposes of this Order, goods are deemed to be sold when possession of the goods has been taken by the purchaser and not otherwise.

(5) For the purpose of this Order, the Fiji Dairy Limited is not deemed to be a wholesalers.

*Extent of control*

3. For the purposes of this Order, the prices charged by enterprises manufacturing within Fiji, in so far as they concern goods manufactured, are not regarded as wholesale or retail prices.

*Maximum wholesale prices*

4.—(1) The maximum wholesale price of any price-controlled item, is fixed at the sum of the following—

- (a) the total into-store cost for pricing of the goods of the wholesaler;
- (b) delivery cost incurred by a wholesaler may also be charged if that charge is stated separately in the invoice provided at the time of sale; and
- (c) the mark-up on the total into-store cost for pricing plus a delivery cost incurred up to an amount no greater than the wholesale percentage prescribed in the Schedule.

(2) This paragraph does not apply to a wholesaler or a related entity of the wholesaler that retails goods.

(3) The above costs and maximum wholesale prices shall be determined by the Commission upon submission of all documentary evidences of all costs incurred by the wholesaler and may only be charged after approval from the Commission.

*Maximum re-wholesale prices*

5.—(1) The maximum re-wholesale price of any price-controlled item is fixed at the sum of the following amounts—

- (a) the total into-store cost for pricing of the goods to the re-wholesaler;
- (b) a delivery cost incurred by a re-wholesaler may also be charged if that charge is stated separately in the invoice provided at the time of sale; and
- (c) the mark-up on the total into-store cost for pricing plus a delivery cost incurred up to an amount no greater than the wholesale percentage prescribed in the Schedule.

(2) This paragraph does not apply to a re-wholesaler or a related entity of the re-wholesaler that retails goods.

(3) The above costs and maximum re-wholesale prices shall be determined by the Commission upon submission of all documentary evidences of all costs incurred by the wholesaler and may only be charged after approval from the Commission.

*Maximum retail prices*

6.—(1) The maximum retail price of any price controlled item is fixed at the sum of the following amounts for—

- (a) the total into-store cost for pricing of the goods to the retailer or in the case of an importer who sells by retail, the total into-store cost for pricing; and
- (b) a mark-up on that cost of an amount no greater than the retail percentage prescribed in the Schedule.

(2) A retailer that imports goods into Fiji, is prohibited from charging a mark-up on the into-store cost for importing the good or any amount stipulated in the Schedule, other than a mark-up stipulated in sub-paragraph (1)(b).

(3) The above costs and maximum retail prices shall be determined by the Commission upon submission of all documentary evidences of all the costs incurred by the retailer and may only be charged after approval from the Commission.

*Packaging*

7.—(1) The maximum retail price of any price calculated in the manner prescribed in paragraph 6 includes the cost of the packaging described in the Schedule.

(2) If a trader in edible oils repackages goods in a container supplied by him or her, he or she may make an additional charge for those containers not exceeding the higher of—

- (a) the into-store cost of the container; or
- (b) the amount which the consumer can obtain for the empty container in good condition in the open market.

(3) The weight of packaging must not be included in the weight sold to the consumer at the price calculated in the manner prescribed in paragraph 6.

*Prices to be marked or displayed*

8.—(1) Subject to paragraph (2) any person having any price-controlled item for sale by retail shall cause it to be legible and conspicuously marked with the maximum retail price for the information of the public.

(2) In the case of any retailer of items 2, 3, 8, 11, 13, 14, 15 and 18 in the Schedule, compliance with the provisions of this paragraph may be affected by the display in a prominent position, a legible and conspicuous notice clearly indicating those goods to which the notice relates and the maximum retail price of the goods.

*Marking of goods*

9. A person shall not—

- (a) sell by retail or offer for sale by retail any price-controlled item at a price in excess of that marked on such item, such maximum retail price having been calculated in the manner prescribed in paragraphs 6 and 7; or
- (b) sell by retail or offer for sale by retail any price-controlled item if the item—
  - (i) is not marked with its maximum retail price being calculated in the manner prescribed in paragraphs 6 and 7; and
  - (ii) if the maximum retail price has been removed, obliterated, concealed or altered other than an alteration reducing the maximum retail price shown on the item.

*Records*

10.—(1) A trader dealing in a price-controlled item must keep to the satisfaction of the Commission the records and accounts, including stock and costing records, as are customary and proper in the type of business carried on by him or her, and without limiting the generality of the foregoing—

- (a) a wholesaler shall maintain records—
  - (i) sufficient to identify goods sold to any individual retailer;

- (ii) showing the price at which those goods were sold; and
  - (iii) of the receipt of those goods into-store and the cost at which those goods were received into-store; and
- (b) any trader, whether selling by wholesale or by retail, shall maintain pricing records showing—
- (i) the basis on which the selling prices are arrived at by reference to the total into-store cost for pricing calculations;
  - (ii) the basis on which all subsequent price variations are calculated by reference to the total into-store cost for pricing calculations; and
  - (iii) delivery costs.

(2) Where goods are sold by a wholesaler at a price which includes the delivery cost, the delivery cost shall be stated separately in the invoice provided at the time of sale.

*VAT*

11.—(1) Traders must state VAT separately (if applicable) in the invoice provided at the time of sale.

(2) An individual or body corporate not registered under section 22 of the Value Added Tax Decree 1991 is not entitled to—

- (a) deduct VAT paid on purchases; and
- (b) charge VAT on their sales.

*Expiration of Order*

12. This Order expires three years from the date this Order commences unless it is extended or earlier revoked.

Dated this 15th day of December 2015.

J. YOUNG  
Chairperson  
Fiji Commerce Commission

Approved this 15th day of December 2015.

A. SAYED-KHAIYUM  
Attorney-General and  
Acting Minister for Industry, Trade and Tourism

## SCHEDULE

<i>Item</i>		<i>Import Percentage</i>	<i>Wholesale Percentage</i>	<i>Retail Percentage</i>	<i>Packaging</i>
1(a)	Baby milk of all types (imported)	NIL	4%	7%	Packaged according to trade custom
(b)	Baby milk of all types (locally packed)	NIL	4%	7%	
(c)	Milk-powdered, evaporated or condensed(with or without other ingredients) (imported)	NIL	4%	7%	
(d)	Milk-powdered, evaporated or condensed(with or without other ingredients) (locally packed)	NIL	4%	7%	
2	Butter (imported)	NIL	10%	5%	Packaged according to trade custom
3(a)	Corned beef and corned mutton (canned)(with or without other ingredients) (imported)	NIL	4%	7%	Can be included in into-store cost
(b)	Corned beef and corned mutton (canned) (with or without other ingredients) (local)	NIL	4%	7%	
4	Dried leguminous vegetables shelled, whether or not skinned or split (imported)	NIL	5%	6%	Packaged according to trade custom

<i>Item</i>		<i>Import Percentage</i>	<i>Wholesale Percentage</i>	<i>Retail Percentage</i>	<i>Packaging</i>
5	Edible oils of all types(imported)	NIL	4%	6%	In bulk, unless retail packaging included in total into-store cost
6	Canned fish (Imported) in Natural Oil or Tomato Sauce; (Tuna; 170g, 185g; Sardines 106g, 155g, 425g; Mackerel 155g, 425g)	NIL	4%	5%	Can be included in into-store cost
7	Garlic (imported)	NIL	4%	7%	Packaged according to trade custom
8(a)	Margarine of all types (imported)	NIL	5%	8%	Packaged according to trade custom
(b)	Margarine of all types (local)	NIL	5%	8%	
9(a)	Milk - liquid (imported)	NIL	4%	7%	Packaged according to trade custom
(b)	Milk - liquid (local)	NIL	NIL	8%	
10	Onions (imported)	NIL	4%	8%	Packaged according to trade custom
11	Potatoes (imported)	NIL	4%	8%	Packaged according to trade custom
12(a)	Rice (imported grown and milled in Fiji)	NIL	4%	6%	Packaged according to trade custom
(b)	Rice-white or polished of all types (imported)	NIL	4%	6%	
13	Salt (imported)	NIL	4%	6%	Packaged according to trade custom

<i>Item</i>		<i>Import Percentage</i>	<i>Wholesale Percentage</i>	<i>Retail Percentage</i>	<i>Packaging</i>
14(a)	Sugar (imported)	3%	4%	10%	Packaged according to trade custom
(b)	Sugar (local)	NIL	4%	10%	
15(a)	Tea leaves of all types (imported) excepting Masala tea	NIL	4%	6%	Packaged according to trade custom
(b)	Tea of all types (local) excepting Masala tea	NIL	4%	6%	
16	Pharmaceutical - patents falling within Chapters 28-30 of the Fiji Customs Tariff	12%	5%	20%	In bulk, unless retail packaging included in total into-store cost
17	Premium Unleaded Petrol (PLUP) (97 Oct)	3%	4%	5%	In bulk, unless retail packaging included in total into-store cost
18	Petroleum Products:				In bulk, unless retail packaging included in total into-store cost
(a)	Kerosene	NIL	4%	7%	
(b)	Solvent gasoline (known as white benzene)	5%	4%	10%	
(c)	Pre-mixed out-board fuel	NIL	5%	7%	