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[LEGAL NOTICE No. 101]

COMMERCE COMMISSION DECREE 2010  
(DECREE No. 47 OF 2010)

## Commerce (Price Control) (Percentage Control of Prices for Food Items) (No. 1) Order, 2010

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 Attorney General and Minister of Justice, Anti-Corruption, Public Enterprise, Industry, Tourism, Trade and Communication, I hereby make this Order—

### *Citation and commencement*

1. This Order may be cited as the Commerce (Price Control) (Percentage Control of Foodstuffs and Certain Household Products) (No. 8) Order 2010 and comes into force on the date of *gazettal*.

### *Interpretation*

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

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

“manufacturing” means the conversion of unfinished products into finished products by means of manual labour 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 items are 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 Schedule 1;

“related entity” means any of the following—

(a) a director or a member of that body or of a 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 a 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-factor spouse, of such a beneficiary;
- (g) a relative of a spouse, or of a de-facto spouse, of such a beneficiary;
- (h) a body corporate one of whose directors is also a director of the first-mentioned body;
- (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.

Ownership and cognate expressions shall widely be construed to include indirect ownership of interest whether held by family members, friends or other businesses which the person may be interested financially or in any other indirect manner.

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

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

(2) A reference in this Order to the cost to a trader of any goods or services 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 evidenced by the invoice for the transaction; or
- (b) the cost which would probably have been incurred for the provision of the same goods or 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 Islands 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.

#### *Extent of control*

3. For the purposes of this Order, the prices charged by enterprises manufacturing within Fiji Islands, 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 Schedule 1.

(2) Clause 4 does not apply to a wholesaler or a related entity of the wholesaler that retails goods.

(3) The above costs shall be determined by the Commission upon submission of all documentary evidences of all the 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 Schedule 1.

(2) Clause 5 does not apply to a re-wholesaler or a related entity of the re-wholesaler that retails goods.

(3) The above costs shall be determined by the Commission upon submission of all documentary evidences of all the 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;
- (b) a mark-up on that cost of an amount no greater than the retail percentage prescribed in Schedule 1.

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

(3) The above costs 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 clause 6 includes the cost of the packaging described in Schedule 1.

(2) If a trader in edible oils repackages goods in container supplied by him, 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 clause 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 legibly 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 Schedule 1, 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. No person may—

- (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 clauses 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 clauses 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, 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) containing a record of the receipt of those goods into-store and the cost at which those goods were received into-store;



(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.

*Value Added Tax (VAT)*

11.—(1) Wholesalers and re-wholesalers must state Value Added Tax (VAT) separately (if applicable) in the invoice provided at the time of sale.

(2) Individuals or body corporate not registered under Section 22 of the Value Added Tax Decree 1991 (Decree No. 45) are not entitled to deduct Value Added Tax (VAT) paid on purchases and also are not entitled to charge Value Added Tax (VAT) on their sales.

*Expiration of Order*

12. This Order expires two year's from the date this Order is made unless it is varied, extended or earlier revoked.

*Revocation*

13. This Order replaces the Counter-Inflation (Price Control) (Percentage Control of Foodstuff and certain household Products) (No. 8) Order 2008 effective immediately.

Dated at Suva this 29th day of September 2010.

M. REDDY  
Chairman  
Fiji Commerce Commission

Approved on this 29th day of September 2010.

A. SAYED-KHAIYUM  
Attorney General and Minister for  
Justice, Anti-Corruption, Public Enterprises,  
Industry, Tourism, Trade and Communications



Schedule 1

ITEM		IMPORT PERCENTAGE	WHOLESALE PERCENTAGE	RETAIL PERCENTAGE	PACKAGING
1 (a)	Baby Milk of all types (imported)	5%	4%	10%	Packaged according to trade custom
(b)	Milk of all types (locally packed)	NIL	4%	10%	
(c)	Milk, powdered, evaporated or condensed (with or without other ingredients) (imported)	5%	4%	10%	
(d)	Milk, powdered, evaporated or condensed (with or without other ingredients) (locally packed)	NIL	4%	10%	
2	Butter (imported)	4%	4%	10%	Packaged according to trade custom
3	Chicken (imported)	4%	4%	10%	Packaged according to trade custom
4 (a)	Corned beef and corned mutton (canned) (with or without other ingredients) (imported)	3%	4%	10%	Can be included in into-store cost
(b)	Corned beef and corned mutton (canned) (with or without other ingredients) (local)	NIL	4%	10%	
5	Dried leguminous vegetables shelled, whether or not skinned or split (imported)	5%	5%	8%	Packaged according to trade custom
6 (a)	Edible oils of all types (imported)	5%	4%	7.5%	In Bulk, unless retail packing included in total into-store cost
(b)	Edible oils of all types (local)	NIL	4%	7.5%	
7 (a)	Fish, crustaceans and molluscs, canned (with or without other ingredients) excepting crabs, lobsters, mussels, oysters, prawns, shrimps, Canadian salmon, shark fins and caviar (imported)	3%	4%	10%	Can be included in into-store cost
(b)	Fish, crustaceans and molluscs, canned (with or without other ingredients) excepting crabs, lobsters, mussels, oysters, prawns, shrimps, Canadian salmon, shark fins and caviar (imported)	NIL	4%	10%	



8	Garlic (imported)	5%	5%	10%	Packaged according to trade custom
	Ghee (imported)	3%	4%	10%	In bulk unless retail packing included in total into-store cost
	Ghee (locally packed)	NIL	4%	10%	
9	Infant food preparation	5%	4%	10%	Packaged according to trade custom
	Margarines of all types (imported)	5%	5%	12%	Packaged according to trade custom
	Margarine of all types (local)	NIL	5%	12%	
	Milk – Liquid (imported)	3%	4%	10%	Packaged according to trade custom
	Milk – Liquid (local)	NIL	4%	10%	
	Noodles of all types (imported)	3%	4%	10%	Packaged according to trade custom
	Noodles of all types (local)	NIL	4%	10%	
13	Onions (imported)	5%	4%	15%	Packaged according to trade custom
14	Potatoes (imported)	5%	4%	15%	Packaged according to trade custom
	Rice (imported brown and milled in Fiji)	NIL	4%	10%	Packaged according to trade custom
	Rice White or polished of all types (imported)	4%	4%	10%	Packaged according to trade custom
17	Salt (imported)	5%	4%	10%	Packaged according to trade custom



18	Sheep Meat (imported) excepting meat supplied to a licensed Hotel or Motel. To be priced as follows;				
(a)	Forequarters, legs, loins, necks, shanks, flaps, chops and whole carcass (sold as imported)	5%	5%	10%	Packaged according to trade custom
(b)	Forequarters, legs, loins, necks, shanks, flaps, chops and whole carcass – locally cut chops	8%	5% (plus 20 cents per tray pack if pre-packed by wholesaler)	12%(plus 20 cents per tray pack if pre-packed by retailer)	Packaged according to trade custom
19 (a)	Sugar (imported)	3%	4%	10%	Packaged according to trade custom
(b)	Sugar (local)	NIL	4%	10%	
20	Tea of all types (imported)	5%	5%	10%	Packaged according to trade custom
	Tea of all types (local)	NIL	5%	10%	
21	Medicine- patents falling within Chapters 28-30 of the Fiji Customs Tariff	12%	5%	20%	In bulk, unless retail packing included in total into-store cost
22	Premium Unleaded Petrol (PLUP) (97 Oct.)	2.5%	4%	5%	In bulk, unless retail packing included in total into-store cost
23	Petroleum products				In bulk, unless retail packing 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%	

NOTE: For wholesale price see paragraph 4 & 5  
For retail price see paragraph 6