

PRICE CONTROL ACT

ARRANGEMENT OF SECTIONS

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[1977 No. 1.]

[1st January, 1977]

[Commencement.]

Constitution, etc., of Price Control Board and Committees

1. Price Control Board

(1) There shall continue to be a Price Control Board, which shall consist of-

- (a) the Permanent Secretary, Federal Ministry of Commerce who shall be chairman and Chief Price Controller;
- (b) a representative of the Federal Ministry of Industry;
- (c) the chairman or a representative of the National Salaries, Income, Wages Commission;
- (d) the Chief Statistician of the Federation;
- (e) six representatives of the States as nominated by the Governor of the State concerned and appointed by the Minister for two years, so however that each State is sometime represented on the Board and that no two of them shall come from the same State;
- (f) one representative of consumers' associations in Nigeria; and
- (g) two representatives from outside the civil services of the Federation or of the States.

(2) The members of the Board under paragraphs (f) and (g) of subsection (1) of this section shall be appointed by the Minister with the approval of the President and shall hold office on such terms and on such conditions as the Minister may with the like approval determine.

(3) There shall be an Executive Secretary to the Board who shall be a public officer in the Federal Ministry of Commerce.

2. Price Control Committees

(1) There shall continue to be for each State a Committee to be known as the Price Control Committee.

(2) The Committee in each State shall consist of-

(a) the Permanent Secretary of the Ministry of Trade and Industries of the State, who shall be chairman of the Committee and State Price Controller;

(b) the Commissioner of Police for the State, or his representative;

(c) the Permanent Secretary, Ministry of Information of the State, or his representative; and

(d) two other persons to be appointed by the State Commissioner for Trade and Industries.

(3) The representative in the State of the Federal Ministry of Commerce, shall be the secretary to the Committee.

(4) It shall be the principal function of the Committee to advise and assist the Board on the implementation of this Act in the State for which the Committee is established.

(5) If in any State any office mentioned in subsection (2) above does not exist, the paragraph in question shall be construed as referring to the office which in the opinion of the Governor most nearly corresponds to the office so mentioned.

1. Provisions supplemental to sections 1 and 2

(1) Subject to any directions given by the Minister, the Board and each Committee may fix its own quorum and otherwise regulate its own procedure.

(2) There may be paid to the members of the Board or any Committee, not being members who are public officers, such remuneration and allowances (if any) as the Minister may decide.

(3) The validity of any proceedings of the Board or a Committee shall not be affected by-

(a) any vacancy in its membership;

(b) any defect in the appointment of any member; or

(c) the fact that a person not entitled to do so took part in the proceedings.

Imposition of price control, offences, etc.

1. Imposition of price control

(1) Price control shall continue to be imposed in accordance with this Act on any goods which are of the kind specified in the First Schedule to this Act.

[First Schedule.]

(2) The Board may by order add any goods to the said First Schedule or delete any goods therefrom.

1. Fixing of controlled price

(1) The Board may by notice published in the *Federal Gazette*—

(a) fix a basic price for any controlled commodity in accordance with subsection (2) of this section; and

(b) fix the permitted variation for the commodity in respect of any State in accordance with subsection (3) of this section.

(2) The basic price is the price which in the opinion of the Board properly represents—

(a) in the case of goods produced in Nigeria, the cost of production of the commodity plus the manufacturer's profit; and

(b) in the case of imported goods, the duty-paid landed cost in Nigeria plus the importer's profit.

(3) The permitted variation, in relation to any particular commodity, is the amount representing transport and other costs plus the distributor's profit which in the opinion of the Board ought properly to be added to the basic price in order to represent a fair controlled price (wholesale or retail, as the case may be) in any State.

6. Prohibition of sale above controlled price

(1) It shall be unlawful for any person to sell, agree to sell or offer to sell any or employ any other person, whether or not that other person is of full age, to sell any controlled commodity at a price which exceeds the controlled price.

(2) If any person contravenes subsection (1) of this section in respect of any controlled commodity—

(a) he shall be guilty of an offence and shall-

(i) in the case of a retailer, be liable to a fine of not less than N200 and not more than N2,000 or to imprisonment for not less than six months, or to both such fine and imprisonment; and

(ii) in the case of a manufacturer, wholesaler or major distributor, be liable to a fine of not less than N 1,000 and not more than N10,000, or to imprisonment for not less than twelve months, or to both such fine and imprisonment; and

(b) the stock of the controlled commodity shall be liable to forfeiture.

(3) Where a person is convicted of any offence under subsection (2) of this section in respect of any commodity the court shall make an order forfeiting the stock of the commodity; and, where such an order is made, the commodity shall be disposed of by the Board as it thinks fit, any proceeds of the disposal being paid into the Consolidated Revenue Fund of the Federation.

(4) Where proceedings under subsection (2) of this section do not result in conviction the court shall make an order for the disposal at the controlled price of any commodity to which the proceedings relate and the proceeds of such disposal shall be applied as follows-

(a) ninety per cent of the proceeds shall be paid to the owner of the commodity;

(b) the remaining ten per cent shall be paid into the Consolidated Revenue Fund of the Federation.

(5) For the purposes of subsection (1) of this section where any person employed by another to sell any controlled commodity is proved to have sold the commodity at any price which exceeds the controlled price, the employer of that person shall, notwithstanding anything to the contrary in any law or rule of law, be deemed to have employed that other person to sell the commodity concerned at the price at which it was in fact sold.

7. Hoarding

(1) If-

(a) a person carrying on a business in the course of which controlled commodities of any description are normally sold has in his possession in the course of that business a stock of controlled commodities of that description; and

(b) that person, or any person employed by him to sell goods in the course of that business, when asked by any other person (referred to in this section as "the

buyer”) to sell any controlled commodity of that description or whether he or, as the case may be, his employer has any such commodity for sale-

(i) refuses to sell the commodity in question, or denies that he (or, as the case may be, his employer) has the commodity, or uses any words or gives any other indication calculated to lead the buyer to suppose that he (or, as the case may be, his employer) has not got the commodity or will not or cannot sell it; or

(ii) offers to sell the commodity subject to a condition requiring the buying of any other goods (whether controlled commodities or not) or the making of any payment in respect of any service, or subject to any other condition except delivery within a reasonable time,

the person carrying on the business shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under subsection (1) of this section in respect of any controlled commodity to prove that the sale of the commodity, or the sale of the commodity without the fulfillment of a condition proposed by him or his employee, would, having regard to the quantity of the commodity which he or his employee was requested to sell or any other consideration, involve a breach of some written and duly stamped contractual obligation lawfully binding on him, which obligation must be to an approved institution.

(3) For the purposes of subsection (2) of this section, an **“approved institution”** means a hospital, school, educational institution, statutory corporation or any department or agency of the Government of the Federation or of a State.

(4) Where a person is convicted of an offence under subsection (1) of this section in respect of any controlled commodity of any description-

(a) he shall-

(i) in the case of an individual, be sentenced to imprisonment for not less than six months without the option of a fine; and

(ii) in the case of a body corporate be sentenced to a fine of not less than N 5,000; and

(b) the stock of controlled commodities shall be liable to forfeiture.

(5) Where a person is convicted of any offence under this section in respect of any commodity the court shall make an order forfeiting the stock of the commodity; and where such an order is made, the commodity shall be disposed of by the Board as it

thinks fit, any proceeds of the disposal being paid into the Consolidated Revenue Fund of the Federation.

(6) Where proceedings under subsection (1) of this section do not result in conviction

the court shall make an order for the disposal at the controlled price of any commodity to which the proceedings relate and the proceeds of such disposal shall be applied as follows-

(a) ninety per cent of the proceeds shall be paid to the owner of the commodity;

(b) the remaining ten per cent shall be paid into the Consolidated Revenue Fund of the Federation.

1. **Resale price maintenance**

(1) The Minister may on the recommendation of the Board and in relation to any commodity, including any commodity in respect of which price control is imposed under this Act, by order approve any resale price maintenance agreement or arrangement entered into by the manufacturer, importer or distributor of that commodity on the one hand, and the seller (whether a wholesaler or retailer) of that commodity on the other.

(2) An order under subsection (1) of this section shall specify the commodity to which the approved resale price maintenance agreement or arrangement relates and the maximum price at which the commodity affected is to be sold under the agreement or arrangement.

(3) Where an order under subsection (1) of this section is in force, it shall be unlawful for any person to sell, agree to sell or offer to sell any commodity to which an approved resale price maintenance agreement or arrangement relates otherwise than in accordance with the terms of the agreement or arrangement.

(4) If any person contravenes subsection (3) of this section-

(a) he shall be guilty of an offence and shall-

(i) in the case of a retailer, be liable to a fine of not less than N200 and not more than N 2,000 or to imprisonment for not less than six months, or to both such fine and imprisonment; and

(ii) in the case of a wholesaler, be liable to a fine of not less than N1 ,000 and not more than N100,000, or to imprisonment for not less than twelve months, or to both such fine and imprisonment; and

(b) the stock of the commodity shall be liable to forfeiture.

(5) Where a person is convicted of any offence under this section in respect of any commodity the court shall make an order forfeiting the stock of the commodity; and when such an order is made, the stock of the commodity shall be disposed of by the Board as it thinks fit, any proceeds of the disposal being paid into the Consolidated Revenue Fund of the Federation.

(6) Where proceedings under subsection (4) of this section do not result in conviction the court shall make an order for the disposal at the controlled price of any commodity to which the proceedings relate and the proceeds of such disposal shall be applied as follows-

(a) ninety per cent of the proceeds shall be paid to the owner of the commodity;

(b) the remaining ten per cent shall be paid into the Consolidated Revenue Fund of the Federation.

9. Enforcement staff

(1) Subject to this Act, the Executive Secretary of the Board shall have the duty of supervising the enforcement of the orders of the Board.

(2) Subject to subsection (3) of this section, public officers may be appointed by the Minister to be inspectors for the purposes of this Act and when so appointed shall be designated in such manner as may from time to time be approved by the Board.

(3) Every Secretary of a local government shall be *ex officio* an inspector (designated in such manner as may from time to time be approved by the Board) for the area in respect of which he was appointed.

(4) Every inspector shall be under the direction and control of the State Price Controller who in turn shall be responsible to the Chief Price Controller and, without prejudice to any other power conferred by this Act, the Chief Price Controller, the State Price Controller or an inspector may-

(a) enter and inspect any premises in the occupation or under the control of any manufacturer, wholesaler or retailer; or

(b) examine any books, accounts or other documents relating to the trade or business of any manufacturer, wholesaler or retailer; or

(c) require any manufacturer, wholesaler or retailer to furnish any information in relation to his trade or business; or

(d) conduct on behalf of the Board any civil or criminal proceedings arising under this Act; or

(e) do any other thing necessary or expedient for the proper discharge of his functions.

(5) Any person who knowingly obstructs the Chief Price Controller, the State Price Controller or an inspector in the exercise of his functions shall be guilty of an offence and liable on conviction to a fine of not less than N200 and not more than N2,000 or to imprisonment for not less than six months, or to both such fine and imprisonment.

(6) The powers conferred by subsection (4) of this section are additional to and not in derogation of any powers conferred on any person by any other enactment, and accordingly (without prejudice to the generality of the foregoing) nothing in that subsection or any other provision of this Act shall prevent-

(a) the conduct on behalf of the Board of any civil or criminal proceedings by a legal practitioner; or

(b) the conduct on behalf of the Board of any criminal proceedings by a police officer.

(7) Any person who falsely represents himself to any other person as an inspector or as an officer designated as such by the Board under this section shall be guilty of an offence and liable on conviction to imprisonment for three years.

10. Duty to furnish information to the Board; penalty

(1) The Board may by an instrument request any manufacturer or importer of any controlled commodity to furnish such information relating to that commodity as the Board may specify, and may by that instrument specify the time, manner and form in which such information is to be furnished and it shall be the duty of any such person to comply with the request.

(2) Any person, who-

(a) refuses or neglects to give any information which the Board may require pursuant to subsection (1) of this section or which may be required by an inspector under subsection (4) (c) of section 9 of this Act; or

(b) in respect of the request makes any statement which he knows to be false or which he has no reason to believe to be true,

shall be guilty of an offence and shall on conviction be liable to a fine of not less than N 200 or imprisonment for not less than six months.

11. Seizure of goods suspected of being liable to forfeiture

(1) Where an inspector not below the rank of assistant price inspector has reasonable grounds to believe that any controlled commodity has become liable to forfeiture under section 6 or 7 of this Act-

(a) he may at any time and without warrant seize and detain the commodity and, if he does so, shall forthwith report the fact to the Committee; and

(b) the Second Schedule to this Act shall apply in relation to the seizure.

[Second Schedule.]

(2) Every police officer shall, if called upon by an inspector to whom subsection (1) of this section applies, give the inspector all reasonable assistance in the implementation of subsection (1) of this section; and every officer in charge of a police station shall, if so called upon, provide such facilities as are reasonably possible for the safe custody of any commodity seized or detained under this section.

12. Requisition and sealing of premises

(1) Where an inspector has reasonable grounds to believe that any premises have been, are being or will or might be used directly or indirectly for the purpose of frustrating the operation of this Act, he may requisition and seal the premises in question.

(2) Where an inspector acts under subsection (1) of this section-

(a) he shall report his action to the Committee within 24 hours;

(b) any person aggrieved by the action-

(i) may appeal to the Committee, which may confirm or cancel the action;
and

(ii) may make a second or further appeal to the Committee in respect of the same matter if more than twelve weeks have passed since a previous appeal; and

(c) the requisitioning and sealing shall last for three months in the first instance and may be extended by the Committee for further periods of three months at a time, so however that the total period of requisitioning and sealing shall not exceed twelve months

(3) Notwithstanding subsection (2) of this section, upon receipt or a report under that subsection in respect of any premises which have been requisitioned and sealed up, the Committee may direct that any commodity found therein which in its opinion is of a per-

ishable nature shall be destroyed or disposed of at such time and in such manner as the Committee thinks fit:

Provided that any controlled commodity which is to be sold under the Foregoing provisions of this subsection shall be sold at the controlled price.

(4) The proceeds of the disposal of any commodity under subsection (3) of this section shall be applied as follows-

(a) eighty per cent of the proceeds shall be paid to the owner of the commodity; and

(b) the remaining twenty per cent shall be paid into the consolidated Revenue Fund of the Federation.

(5) Any person who knowingly and without reasonable excuse breaks a seal affixed under subsection (1) of this section shall be guilty of an offence and on conviction shall be liable to a fine of not less than N5, 000 or to imprisonment for not less than two years.

13. Court order preventing habitual offender from carrying on business concerning controlled commodity

(1) On the second or any subsequent occasion on which any person carrying on the business of manufacturer, importer, wholesaler or retailer of any controlled commodity is convicted of any offence under this Act the court on an application made by the Board shall make an order preventing, for such period not less than two years as the court may specify in the order, that person from carrying on or being directly or indirectly concerned in that business and cancelling any licence or permit (however described) whereby that person is authorised to do so.

(2) If any person contravenes any provision of an order made under subsection (1) of this section he shall be guilty of an offence and on conviction shall be liable to a fine of not less than N2000 or to imprisonment for not less than three years or to both such fine and imprisonment.

14. Offences by bodies corporate

Where any offence under this Act by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in any such capacity), he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished accordingly.

15. Trial of offences

(1) The Chief Judge of a State shall for the purpose of the trial of offences under this Act, or regulations made thereunder, constitute a separate division of the High Court of the State which shall be presided over by a judge of the High Court of that State and which shall, notwithstanding anything to the contrary in any law, by virtue of this section have jurisdiction to try offences under this Act committed in any part of the State concerned, and to make such orders as may be required under this Act.

(2) The division of the High Court constituted pursuant to subsection (1) of this section shall, notwithstanding anything to the contrary as aforesaid, be engaged exclusively on the trial of offences and the hearing of applications and other matters arising from the operation of this Act, and shall consist of such number of judges (who, for the avoidance of doubt, shall sit separately) as the Chief Judge may determine and such judges shall sit in such places within the State concerned as the Chief Judge may, from time to time, direct.

(3) Offences under this Act shall be triable summarily by the division of the High Court constituted pursuant to subsection (1) of this section, and the provisions of Chapter VI of the Criminal Procedure Act or Law or, where applicable, of Chapter XVIII of the Criminal Procedure Code Law shall apply in relation to the trial of the offences.

[Cap. C41. Cap. 30 of N.N.]

(4) It shall be the duty of a court before whom an accused is brought under this section to ensure that the offence is tried and finally disposed of within 28 days of the date on which the accused was first brought before such court.

Miscellaneous

16. Exclusion of personal liability

No personal liability in respect of any act done in good faith and in proper execution of his official duties in pursuance or in purported pursuance of this Act shall be incurred by any member of the Board or a Committee, the Chief Price Controller, the State Price Controller, any inspector or any police officer.

17. Regulations

The Minister may with the approval of the President make such regulations as may, in the opinion of the Minister, be required for carrying into effect the objectives of this Act

and generally to facilitate the implementation of this Act and, without prejudice to the generality of the foregoing, the regulations may make provisions-

- (a) with respect to any matter pertaining to the sale of any commodity, whether or not the commodity is subject to price control under this Act;
- (b) prescribing penalties not exceeding a fine of N200 or imprisonment for six months for any contravention of the regulations.

18. Interpretation

(1) In this Act, unless the context otherwise requires-

“Board” means the Price Control Board established by this Act;

“Committee” means a Price Control Committee established by this Act in relation to a State;

“controlled commodity” means any goods specified in the First Schedule to this Act or any class of any such goods;

“controlled price” in relation to a controlled commodity, means the controlled price, wholesale or retail, fixed in accordance with section 5 of this Act;

“court” means a special division of the High Court of a State constituted pursuant to section 15 of this Act;

“inspector” means any inspector, however designated, who is an inspector by virtue of section 9 of this Act and includes the Chief Price Controller and a State Price Controller but does not include any person appointed to any grade below that of assistant price inspector;

“Minister” means the Minister responsible for commerce;

“premises” includes premises which consist of part of larger premises.

(2) In this Act, the reference, in relation to any commodity, to-

(a) a major distributor of that commodity is a reference to a seller of that commodity who obtains his stock of the commodity directly from the manufacturer or importer of that commodity;

(b) a wholesaler of that commodity is a reference to any seller of that commodity engaged whether exclusively or not, in the selling of that commodity in quantities other than those in which the commodity is ultimately normally sold to the consumer or user of the commodity; and

(c) a retailer of that commodity is a reference to the seller of that commodity who is neither a major distributor nor a wholesaler.

19. Short title, repeal, savings, etc.

(1) This Act may be cited as the Price Control Act.

(2) The Price Control Act is hereby repealed.

[1970 No. 33.]

(3) Without prejudice to section 6 of the Interpretation Act nothing in this Act shall invalidate or otherwise prejudicially affect any appointment made or price fixed under the repealed enactments; and any such appointment or price, if it was effective immediately before the commencement of this Act, shall thereafter have effect as if it had been validly made or fixed under this Act.

[Cap. 123.]

SCHEDULES

FIRST SCHEDULE

[L.N. 22 of 1979. Section 4.]

Controlled commodities

1. Bicycles and spare parts.

1. Flour.
2. Matches.
3. Milk.
4. Motorcycles and spare parts.
5. Motor vehicles and spare parts.
6. Petroleum products.
7. Salt.
8. Sugar.

SECOND SCHEDULE

[Section 11.]

Disposal of seized commodities

1. This Schedule applies where an inspector seizes a commodity under section 11 of this Act.
2. The commodity shall be held in the custody or under the control of the Board until it is disposed of in accordance with this Schedule or section 6 or 7 of this Act.

3. Unless the commodity is seized in the presence of the offender or in the presence of the owner of the commodity or his employees, notice of the seizure shall be given by the inspector to any person appearing to the inspector to be the owner of the commodity.

4. A notice under paragraph 3 of this Schedule shall be in the form specified in the Appendix to this Schedule and, without prejudice to any other method of service, may be served-

[Appendix.]

(a) by being delivered by hand, by post or otherwise to the usual or last-known place of abode or business of the person to be served or, in the case of a body corporate, to its registered or principal office; or

(b) by being published in a newspaper circulating in the State in which the seizure took place.

5. (1) Any person claiming that he is the owner of the commodity and that the commodity is not liable to forfeiture may give notice of his claim in the form specified in the Appendix to this Schedule to the Committee within 28 days of the seizure or, if a notice is served under paragraph 3 of this Schedule, within 28 days of the service of the notice under that paragraph.

[Appendix.]

(2) The said period of 28 days may be extended by the Committee if it thinks fit.

6. (1) If a claim is made under paragraph 5 of this Schedule-

(a) the Committee shall refer the claim to the appropriate court; and

(b) the claim shall be disposed of by the court as nearly as may be as if it were an action of detinue or its equivalent brought by the claimant against the Board, power being hereby conferred on the court to give any special procedural directions which may be necessary or expedient to ensure the proper disposal of the claim on that basis.

7. If no claim is made under paragraph 5 of this Schedule, or if any such claim is dismissed by the court under paragraph 6 above, then, subject to paragraph 8 below, the commodity shall be deemed to be forfeited and shall be disposed of by the Board as it thinks fit, any proceeds of the disposal being paid into the Consolidated Revenue Fund of the Federation.

8. If criminal proceedings under this Act are instituted in respect of the commodity, then, notwithstanding anything in this Schedule, the commodity shall be disposed of as ordered in

those proceedings, and any proceedings started under paragraph 6 of this Schedule shall forthwith abate and be discharged.

9. References in this Schedule to the owner of a commodity shall be construed, where a commodity has more than one owner, as references to any eo-owner.

APPENDIX

[Paragraph 4.]

Notice of seizure

Take notice that under the powers conferred by section 11 of the Price Control Act the goods listed

below were seized on(date)

at..... (place)

List of Goods

Signature

Date.....

To.....

of.....

Notice of claim to seized goods

[Paragraph 5.]

Take notice that it is hereby claimed

that.....of

..... is the owner of the goods listed

below which were seized on (date) at

.....

(place) and that it is hereby further claimed that the said goods are not liable to forfeiture under the Price Control Act.

List of Goods

Signature

Date.....

To: The Secretary,

The Price Control Committee for.....State.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

I. Price Control (Resale Price Maintenance Arrangement) Order.

PRICE CONTROL (RESALE PRICE MAINTENANCE ARRANGEMENT) ORDER

[L.N. 21 of 1979.]

under section 8 (1)

[1st April, 1978]

[Commencement.]

1. Approval of resale price arrangement, etc.

The commodities specified in the Schedule to this Order are hereby approved as goods subject to the resale price maintenance arrangement or agreement entered into by the manufacturer, importer or distributor of the commodity concerned on the one hand and the seller (whether a wholesaler or retailer) of that commodity on the other hand.

2. Short title

This Order may be cited as the Price Control (Resale Price Maintenance Arrangement) Order.

SCHEDULE

[Section 1.]

Commodities under resale price maintenance arrangement

1. Beer and stout.

1. Building materials.

2. Cement.

3. Cigarettes and tobacco.

4. Educational materials.

5. Electronic equipment.

1. Pharmaceutical products.
2. Roofing sheets.
3. Soft drinks and malt products.
4. Soaps and detergents.
5. Textile and clothing (including baft and shirting).
6. Tinned meat.
7. Tyre and inner tubes.