
CHAPTER 138

THE DISTRIBUTION AND PRICE OF GOODS ACT

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DISTRIBUTION AND PRICE OF GOODS

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1811989.
S.I. 3911989.

1. This Act may be cited as the Distribution and Price of Goods Act. **Short title.**

2. In this Act— **Interpretation.**

"authorized officer" includes any person appointed by the Governor-General to be an authorized officer and any police officer of or above the rank of sergeant;

"consumer" means any person who purchases or offers to purchase goods otherwise than for the purpose of resale;

"goods" includes all kinds of movable or personal property including animals;

"maximum price" means the maximum price for goods fixed by the Minister in accordance with the provisions of section 3;

"Minister" means the Minister responsible for the subject of price control;

"price" includes any valuable consideration of any kind whatsoever whether direct or indirect;

"retail" with its grammatical variations and cognate expressions, when used in relation to a sale, means a sale by a trader to a consumer;

"sell" with its grammatical variations and cognate expressions includes an agreement to sell, an offer to sell, the exposure of goods for sale, the publication of a price list, the furnishing of a quotation, or any act or notification whatsoever whereby willingness to enter into any transaction or sale is expressed;

"Price Control Officer" means the person appointed by the Public Service Commission as Price Control Officer of Antigua and Barbuda for the purposes of this Act;

"trader" means any person who carries on the business of selling goods and includes any person carrying on business in the course of which he supplies goods for the purpose of or in pursuance of a contract made by him for work, labour and materials and a commission agent.

Fixation of maximum price of goods.

3. (1) The Minister, so far as appears to him to be necessary for the purpose of maintaining, controlling or regulating supplies as to secure a sufficiency of those essential to the well-being of the community, their equitable distribution and their availability at fair prices may from time to time by order published in the *Gazette* fix and declare the maximum prices for which any goods may be sold by retail or wholesale either throughout Antigua and Barbuda or in any specified part thereof.

(2) An order made under the provisions of subsection (1) may direct that the maximum price of any goods shall not exceed a specified sum or may direct the manner in which the maximum price shall be ascertained and may—

(a) fix different maximum prices for the same class of goods having regard to the terms upon which and the circumstances in which the goods are manufactured, imported or sold; and

(b) fix alternative methods by which the maximum price may be ascertained for the same or different classes of goods.

(3) Any order made under this section may contain such incidental and supplementary provisions as are necessary for the purposes of the order.

Trader to obtain licence to import basic or essential goods.

4. No trader shall import or be concerned in the importation of any goods specified in any order made under this Act as essential or basic goods without first obtaining a licence from the Minister to do so.

5. (1) Every trader shall cause every order made under section 3 of this Act to be displayed in good and readable condition at a conspicuous place on the business premises where any goods mentioned in the order are sold for the information of the public so long as the order is in force.

Information to be given concerning the price of goods specified in an order.

(2) Any trader who fails to comply with the provisions of this section shall be guilty of an offence.

6. (1) For the purposes of this Act there shall be established a Prices Commission hereinafter called "the Commission".

Establishment of Prices Commission.

(2) The provisions of the Schedule shall have the effect with respect to the constitution of the Commission and otherwise in relation thereto.

Schedule.

7. The functions of the Commission shall be—

Functions of Commission.

(a) to advise and assist the Minister on matters relating to the control of price of goods sold in Antigua and Barbuda;

(b) on its own motion or in consequence of a request by the Minister or a complaint made by any person in respect of the prices charged for goods to make investigation into such prices or charges as hereinafter provided;

(c) to report its findings and recommendations to the Minister;

8. (1) The Commission may, where it thinks it expedient for the purpose of any investigation under section 7 by notice in writing signed by the Chairman of the Commission—

Power of Commission to summon witness and require production of documents.

(a) require any person to attend at a time and place specified in the notice and to give evidence to the Commission;

(b) require any person to produce, at a time and place specified in the notice, to the Commission or to any public officer authorised by the Commission for the purpose, any documents or class of documents specified or described in the notice, being documents which are

in his custody or power or under his control and relating to any matter relevant to the investigation;

(c) require any person carrying on or employed in connection with carrying on any trade or business to furnish to the Commission such estimates, returns or other information as may be specified or described in the notice and specify the time, manner and form in which any such estimates, returns or information are to be furnished.

(2) A person upon whom a notice under subsection (1) is served shall—

(a) be bound to comply with the notice;

(b) be entitled when appearing before the Commission, to the same rights and privileges as a witness enjoys before a court of law.

(3) Any person who—

(a) without reasonable excuse, refuses or fails to do anything duly required of him by a notice under subsection (1); or

(b) wilfully alters, suppresses or destroys any document which he is required to produce by a notice under subsection (1); or

(c) in furnishing any estimates, returns or other information required of him by a notice under subsection (1), makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) A person shall not be convicted for failing or refusing to attend before the Commission unless the notice requiring him so to attend was served on him personally at least three days before the day on which he was required to attend.

9. Any person who obtains information by virtue of any of the provisions of this Act and, without the written permission of the Minister, discloses that information otherwise than in the discharge of his functions under this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Restriction on disclosure of information.

10. The Minister may make regulations for the better carrying out of the provisions of this Act.

Regulations.

11. Where the quantity of goods sold or offered for sale is greater or less than the quantity specified in the order made under section 3, such goods shall, subject to any express provisions to the contrary in the order, be sold or offered for sale at a proportionately increased or decreased price as the case may be.

Proportionate prices.

12. (1) No person shall in respect of any goods the maximum price of which has been fixed under the provisions of section 3—

Sale at more than maximum price or upon conditions, etc.

(a) sell or buy or agree to buy any such goods at a price greater than the maximum price; or

(b) impose, whether at the time of delivery of any such goods or at any subsequent time prior to payment therefor, any condition relating to the sale of such goods or to payment therefor other than a condition requiring immediate payment for such goods; or

(c) with the object of speculating or profiteering hoard any such goods.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence against this Act and shall—

(a) on summary conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand dollars; or

(b) on conviction on indictment be liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty-five thousand dollars.

Goods to be
marked with
selling price.

13. (1) The Price Control Officer may by a notice published in the *Gazette* and in a newspaper published and circulating in Antigua and Barbuda require all or any traders offering or displaying for sale such goods as may be specified in the said notice, to cause the same to be marked with the selling price thereof in a clear and legible manner either upon the goods in question or on the wrappings or containers thereof, or on labels or tags securely attached to such goods.

(2) Any trader who fails to mark any goods required to be marked in accordance with the provisions of the foregoing subsection shall be guilty of an offence against this Act.

Refusal to sell.

14. (1) Any person carrying on a business in the course of which goods of any description in respect of which an order has been made under section 3 are normally sold and having in his possession a stock of goods of such description who—

(a) falsely denies that he has such goods in his possession; or

(b) without reasonable cause refuses to sell such goods in reasonable quantities upon tender of immediate payment of the maximum price fixed therefor,

shall be guilty of an offence against this Act and shall on summary conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand dollars.

(2) Nothing in this section shall be deemed to make it obligatory for any person to sell any goods which he has in stock for the purpose of advertisement or as a sample.

Delivery of
invoice.

15. (1) Every trader who sells whether by wholesale or retail goods the maximum price of which has been fixed shall on request tender at the time of sale to every purchaser of such goods from him an invoice showing the date of sale, a description of the goods sufficient to identify the same, the quantity of such goods and the price charged therefor.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence against this Act.

16. (1) An authorized officer may—

Furnishing of information.

(a) require any trader to supply him either orally or in writing with any information in his possession relating to goods;

(b) at any reasonable time require any trader to produce for his inspection any document or account whatsoever relating wholly or in part to the business carried on by such trader in relation to the sale of goods;

(c) require any trader to furnish him with copies of any such document as is referred to in paragraph (b);

(d) enter during business hours upon any place or premises in the occupation of any trader for the purpose of ascertaining whether the provisions of this Act are being complied with and to search for and inspect any documents of the kind referred to in paragraph (b) and make copies or abstracts of such documents and take such steps as may be reasonably necessary in the premises;

(e) take possession of any document which appears to him to constitute prima facie evidence of a breach of any order or notice under the provisions of this Act.

(2) Any person who—

(a) obstructs an authorized officer in the exercise of his powers under subsection (1);

(b) wilfully fails to give any information or to produce any document lawfully required of him under the provisions of subsection (1); or

(c) knowingly gives to an authorized officer any false information relating to goods,

shall be guilty of an offence against this Act.

17. (1) Every trader dealing in goods the maximum price of which has been fixed shall keep reasonable records of all purchases of such goods.

Records to be kept by traders.

(2) The Price Control Officer may by notice in writing require any trader to keep any records or accounts as are specified in such notice.

(3) Any trader who contravenes or fails to comply with the provisions of this section or of any notice thereunder shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

Power to
requisition goods.

18. (1) Where it appears to the Minister necessary for the purpose of ensuring a sufficient supply of food stuffs or essential commodities for use or consumption in Antigua and Barbuda or for their equitable distribution therein, he may empower the Price Control Officer by written notice to any person or persons in possession, or having control, of such goods to requisition or cause to be requisitioned any such goods, and to provide for the distribution and sale of any such goods.

(2) Any person to whom any notice or requisition is given under the provisions of subsection (1) shall hold to the order of the Price Control Officer the goods specified therein in accordance with the terms of such notice.

(3) Upon requisitioning any goods under the provisions of subsection (1) the Price Control Officer shall pay as compensation to the person in possession or having control of such goods a sum equal to the price which such person might reasonably have been expected to obtain upon a sale of such goods, regard being had to the condition of the goods at the time.

(4) If the person in possession or control of any goods requisitioned under the provisions of subsection (1) fails without reasonable cause to deliver such goods in accordance with the terms of the notice of requisition any authorized officer specifically authorized in that behalf in writing by the Price Control Officer may enter the premises whereon such goods are kept and seize them.

(5) Any person who contravenes or fails to comply with any of the provisions of this section or of any notice thereunder shall be guilty of an offence against this Act and shall on summary conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand dollars.

19. Where it appears to the Minister necessary for the purpose of ensuring an equitable distribution of any foodstuffs or essential commodities in Antigua and Barbuda or any part thereof, he may, by order, authorize the Price Control Officer to provide for the exclusive or limited right of distribution and sale of such foodstuffs or commodities through any trader or traders approved by the Price Control Officer.

Power to direct distribution and sale of essential goods.

20. Where a person charged with an offence under the provisions of this Act is a body corporate every person who, at the time of the commission of the offence, was a director or officer of the body corporate may be charged jointly in the same proceedings with such body corporate, and where such body corporate is convicted of the offence every such director or officer shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Liability of officers of corporate bodies.

21. (1) Where a corporation is charged with an offence against this Act such corporation may appear and plead to the charge or indictment, by its representative, by entering a plea in writing; and, if either the corporation does not appear by representative, or though it does so appear, fails to enter any plea, the court shall cause a plea of not guilty to be recorded and the trial shall proceed accordingly.

Appearance and plea by corporation.

(2) Where a corporation is charged, whether alone or jointly with some other person, with an indictable offence punishable under this Act, the magistrate may, if he is of opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation upon trial, commit the corporation for trial.

(3) Any indictment filed against a corporation or other document addressed to a corporation may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation or, if there be no such office in Antigua and Barbuda, by leaving it at, or sending it by post to, the corporation at any place in Antigua and Barbuda at which it trades or conducts business.

(4) In this section the expression "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorized to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(5) A representative for the purpose of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as *prima facie* evidence that that person has been so appointed.

Liability of employers.

22. Every person shall be liable for the acts and omissions of any partner, agent, or servant in so far as they relate to the business of such person and if such partner, agent or servant performs any act or suffers any omission which contravenes or fails to comply with the provisions of this Act such person and his partner, agent or servant may be charged jointly in the same proceedings and shall be liable jointly and severally to the penalties imposed by this Act, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Compensation to purchaser of goods at price in excess of maximum price.

23. Where any person is convicted of selling goods at a price in excess of the maximum price and—

(a) the court considers that the purchaser of the goods did not know and could not reasonably be expected to know that the price paid by him for such goods was in excess of the maximum price; or

(b) the purchaser of the goods reported the sale to the Price Control Officer or to a police officer of or above the rank of Inspector within forty-eight hours of such sale,

the court may, in addition to any other penalty which it may impose, order the person convicted to pay to such purchaser the difference between the maximum price and the price at which the goods were sold together with such sum, if any, as the court may think fit to award by way of compensation for any expenses incurred by such purchaser.

24. Any person guilty of an offence against this Act for which no penalty is expressly provided shall on summary conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months. **Penalty.**

25. Any notice, order, approval or report given, made or received by the Supply Officer, under or by virtue of the provisions of this Act prior to the 15th of March 1962 shall be deemed to have been given, made or received, as the case may be, by the Price Control Officer, and may be revoked, varied or amended accordingly. **Notices, etc. of Supply Officer deemed to be those of Price Control Officer.**

SCHEDULE

S. 6(2)

Constitution and procedure of the Prices Commission

1. (1) the Commission shall consist of the following members appointed by the Minister—

(a) a chairman selected from among persons possessing the necessary competence, experience and integrity who shall hold office for a period of three years or such shorter period as may be specified in his instrument of appointment;

(b) four persons, not being public officers, who shall be selected from a list of three names submitted by each of such organisations as the Minister may determine.

(2) The members other than the Chairman shall hold office for one year but shall be eligible for re-appointment.

(3) If at any meeting of the Commission the Chairman is absent, the members present shall elect one of their number to be Chairman of that meeting.

(4) In the event of a vacancy occurring in the office of a member of the Commission whether through death, resignation or other cause, such vacancy shall be filled in the same manner as that in which appointment to the said office is required by this Act to be made.

2. The quorum of the Committee shall be three, but subject thereto the committee may act notwithstanding any vacancy in their number.

3. There shall be paid to a member of the Commission in respect of his office such remuneration as the Minister may determine.

4. (1) The Minister may assign for service with the Commission any public officer of his Ministry or may obtain for such service, with the approval of the Public Service Commission, the services of other public officers as may be necessary, one of whom shall be Secretary to the Commission.

(2) The expense of setting up and carrying out the functions of the Commission shall be met from such monies as Parliament may provide.
