SUBSIDIARY LEGISLATION 378.09

CONSUMER AFFAIRS ACT (PRICE INDICATION) REGULATIONS

1st October, 2002

LEGAL NOTICE 283 of 2002 as amended by Legal Notice 25 of 2007 and Acts XVI of 2019 and XIII of 2022.

Citation.

1. The title of these regulations is the Consumer Affairs Act (Price Indication) Regulations.

Interpretation. *Amended by: XIII.2022.12.* Cap. 378.

2. (1) Any reference in these regulations to the "Act" is a reference to the Consumer Affairs Act and, subject to the provisions of subregulation (2), the provisions of article 2 of the said Act shall apply to these regulations.

(2) In these regulations, unless the context otherwise requires:

"consumer" means any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;

place of business" means any place from where any trade or business is carried out including any stall, or online marketplace as defined in the Consumer Rights Regulations; S.L. 378.17.

"price" means the purchase price, and in all cases, the price indication must be the final retail selling or unit price, including VAT and any other taxes or charges.

"products sold in bulk" mean products which are not pre-packaged and are weighed and measured at the request of the consumer.

"stall" means any vehicle, compartment, bench, board, trolley, table or receptacle or a combination thereof placed in any marketplace for the sale of goods.

Rights of consumers.

3. (1) Consumers have the right to receive adequate, correct and unambiguous information regarding the price of goods sold or offered for sale to them, and to be able to make informed decisions on the basis of simple comparison.

(2) The provisions of subregulation (1) shall not be directly enforceable in any court or tribunal, but shall be adhered to in the interpretation and implementation these regulations.

Obligation to indicate prices of goods.

4. Any trader who offers goods for sale on a retail basis to consumers shall display by means of appropriate marking, or by other methods clearly indicate, the price of the goods so offered.

Price indications.

5. (1) Any trader shall exhibit conspicuously in his place of business a sample of every kind, size, type or brand of goods stocked by him, and each such sample shall bear a label or mark showing the price at which any goods are being offered for sale.

(2) Every indication of a price required in terms of these

regulations shall be made and displayed in a manner which is unambiguous, easily identifiable and clearly legible.

(3) The figure denoting the price on the said label or mark shall be clearly and boldly printed or otherwise indicated in writing.

(4) Any kind, size, type or brand of goods displayed in the shop-window, or on the outside of the premises, shall bear the relative selling price label as required by the preceding subregulations:

Provided that, where more than one item of the same kind, size, type or brand of the same goods are so displayed, it will be sufficient for the price to be shown on only one of such items.

(5) In respect of any goods including foodstuffs which are sold or offered for sale to consumers per unit weight or volume, there shall be indicated -

(*a*) both the actual price (being the price for a given quantity of the good);

(*b*) and the unit price (being the final price for one kilogram, one litre, one metre, one square metre, or one cubic metre of the goods).

(6) Pre-packaged goods, including foodstuffs, sold in pre-established or variable quantities must show both the selling price and the unit price.

(7) Products sold in bulk must show the unit price.

(8) In the case of a pre-packaged solid food product presented in a liquid medium, the unit price shall refer to the net drained weight of the product. Where a unit price is also given with reference to the net weight of the product, it shall be clearly indicated which unit price relates to net drained weight and which to net weight.

(9) The indication of any charges for postage, package or delivery of a good shall be unambiguous, easily identifiable and clearly legible.

(10) The indication of the price and of the unit price as required under these regulations shall be in Maltese currency.

Price Reductions. *Added by: XIII.2022.13.*

5A. (1) Any announcement of a price reduction shall indicate the prior price applied by the trader for a determined period of time prior to the application of the price reduction.

(2) The prior price means the lowest price applied by the trader during a period of time not shorter than thirty (30) days prior to the application of the price reduction:

Provided that for goods which are liable to deteriorate or expire rapidly, the prior price is the one applied immediately before the price reduction:

Provided further that if the goods have been on the market for less than thirty (30) days, the prior price means the lowest price

applied by the trader during this period:

Provided further that when the price reduction is progressively increased, the prior price is the price without the price reduction before the first application of the price reduction.

Exemption from regulations.

6. (1) The provisions of regulation 5 shall not apply to:

(*a*) goods supplied for the purpose of re-selling;

(*b*) goods sold in the course of the provision of a service;

(*c*) sales by auction or sales of works of art or antiques;

(*d*) an advertisement for such goods, unless the selling price is indicated in the advertisement.

(2) The Director General may, from time to time, by notice published in the Gazette exempt any additional goods or categories thereof from any of the provisions of these regulations, which may include the exemption of categories of goods from the obligation to display also the unit price.

(3) The Director General may, in particular circumstances where he is satisfied that adherence thereto would be excessively onerous, by notice published in the Gazette, exempt small retail businesses or such other categories of traders as shall be specified, generally or in respect of one or more goods as may be specified in the notice, from the obligation to display the unit price in terms of these regulations, subject to such conditions as he shall deem appropriate.

Power of Director General.

7. Without prejudice to any of the forgoing regulations, the Director General may, in respect of any goods offered for sale to consumers, impose any such other additional specific requirements or conditions as he may deem fit regarding the manner in which prices and other information are indicated or displayed, including limitations on the information that may be indicated or displayed, and the trader concerned shall be obliged to comply accordingly.

Submission of information.

8. Traders shall produce to the Director General or to any officer duly authorized by him in writing, such information as may be required by the Director General acting in pursuance of any of his functions under these regulations, in such form and within such reasonable time as the Director General may establish.

Offences.
Amended by: L.N. 425 of 2007; XIII.2022.14.

9. (1) Any person who contravenes or fails to comply with any of the provisions of any of these regulations shall be guilty of an offence.

(2) Proceedings in respect of an offence against these regulations shall be commenced within one year from the commission of the offence.

(3) Any person who contravenes any of these regulations shall, on conviction, be liable:

(*a*) in the case of a first conviction, to a fine of not less than one hundred and fifty euro (€150) and not exceeding one thousand and five hundred euro (€1,500);

(*b*) in the case of a second or subsequent conviction, to a fine of not less than two hundred euro (€200) and not exceeding two thousand euro (€2,000):

Provided that the Court, when imposing a fine, shall take into account the following non-exhaustive and indicative criteria:

(i) the nature, gravity, scale and duration of the infringement;

(ii) any action taken by the trader to mitigate or remedy the damage suffered by consumers;

(iii) any previous infringements by the trader;

(iv) the financial benefits gained or losses avoided by the trader due to the infringement, if the relevant data are available;

(v) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by the Consumer Protection Co-operation Regulation as defined in article 2 of the Act;

(vi) any other aggravating or mitigating factors applicable to the circumstances of the case:

Provided further that with regard to any convictions, the Court shall order the publication in one or more daily newspapers of the judgement, or a statement or summary thereof, passed on the offender:

Provided further that with regard to any convictions, the Director General shall also publish on the website of the Authority the judgement delivered by the Court, or a statement or summary thereof, passed on the offender.

Responsibility of traders.

10. Every trader shall take all necessary steps to ensure full compliance with these regulations; and even where any contravention of or non-compliance with any regulation may be attributed to any person in the employment of such trader, or in the exercise of any act or function authorized or permitted by the trader, proceedings shall also be taken against such trader.