

L.N. 62 of 1982

SUPPLIES AND SERVICES ACT, 1947**(ACT NO. IV OF 1947)****Sale of Commodities (Control) (Amendment) Regulations, 1982**

IN EXERCISE of the powers conferred by section 3 of the Supplies and Services Act, 1947, the Minister of Economic Development has made the following regulations:—

Citation.

L.N 21 of 1972

1. These regulations may be cited as the Sale of Commodities (Control) (Amendment) Regulations, 1982, and shall be read and construed as one with the Sale of Commodities (Control) Regulations, 1972, hereinafter referred to as “the principal regulations”.

Amends
regulation 2
of the
principal
regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) the present provision shall be re-numbered as paragraph (1); and

(b) immediately before the definition of “commodity” in paragraph (1) thereof as re-numbered there shall be inserted the following new definition:

“ “the Act” means the Supplies and Services Act, 1947;”;

(c) immediately after the definition of “Director” in paragraph (1) thereof as re-numbered there shall be inserted the following new definition:

“ “fixed” in relation to a price, means fixed under or in accordance with these regulations;”;

(d) immediately after paragraph (1) thereof as re-numbered there shall be added the following new paragraph:

“(2) For the purposes of these regulations, the price of a commodity shall be deemed to be unreasonable if —

(a) in respect of a sale by a local manufacturer or an importer to a wholesaler, the profit exceeds 10 per cent of the ex-factory price or the import duty paid cost of the commodity as provided in sub-paragraph (i) of paragraph (3) of regulation 3 of these regulations;

(b) in respect of a sale by a local manufacturer or an importer to a retailer, the profit exceeds 15 per cent of the ex-factory price or the import duty paid cost of the commodity as provided in sub-paragraph (i) of paragraph (3) of regulation 3 of these regulations;

(c) in respect of a sale by a wholesaler to a retailer the profit, exceeds 10 per cent of the price at which the wholesaler purchased the commodity without the addition of any charge;

(d) in respect of a sale by a retailer to a consumer, the profit exceeds 20 per cent of the price at which the retailer purchased the commodity without the addition of any charge.’

3. For regulation 7 of the principal regulations there shall be substituted the following:

Substitutes regulation 7 of the principal regulations.

"Showing of invoice, etc., for examination.

7. (1) Every person shall, if so required by the Director or by any member of the Police or by any person appointed under section 4 of the Act, or by any member of a body of persons so appointed, produce on demand for examination any invoice or other document (including books) in his possession, relating to the purchase, manufacture, production or sale of any commodity.

(2) Certificates of costings and related invoices or documents are to be retained by local manufacturers/importers/wholesalers/retailers for a period of 2 years from their date of issue or until the commodities to which they relate are sold, whichever is the later.

(3) Where any invoice or other document produced for examination as required by this regulation is false or misleading or does not represent the true facts in any material respect, the person so producing it and any person responsible for the drawing up of such invoice or document or for the making of the false, misleading or untrue entry therein, shall be guilty of an offence against these regulations."

4. In paragraph (1) of regulation 9A of the principal regulations, for the words "during the year 1974" and the words "at any time fails" there shall be substituted respectively the words "during any one year" and the words "at any time thereafter fails".

Amends regulation 9A of the principal regulations.

5. Regulation 13 of the principal regulations shall be amended as follows:

Amends regulation 13 of the principal regulations.

(a) in paragraph (1) thereof, for the words "showing the quantity sold" there shall be substituted the words "showing the number and date of the applicable certificate of costings, if any, the date of the transaction, the quantity sold,"; and

(b) in paragraph (4) thereof, for the words "at which any commodity may be sold" there shall be substituted the words "at which any commodity is sold".

6. Regulation 14 of the principal regulations shall be amended as follows:

Amends regulation 14 of the principal regulations.

(a) in paragraph (1) thereof, for the words "as he may prescribe." there shall be substituted the words "as he may specify in the request."; and

(b) in paragraph (2) thereof, for the words "lapse of the prescribed time" there shall be substituted the words "lapse of the specified time".

7. For paragraph (3) of regulation 17 of the principal regulations there shall be substituted the following:

Amends regulation 17 of the principal regulations.

"(3) The Director may in his discretion exempt any commodity or commodities, or any class or classes of commodities, from the requirements of this regulation.

(4) The provisions of this regulation shall not apply to any commodity the maximum price of which is at the time of the release fixed in the manner specified in sub-paragraph (a) of paragraph (2) of regulation 3 of these regulations.

(5) If any certificate of costings, or any document accompanying it, submitted under this regulation is false, misleading or otherwise incorrect in any material respect, the person submitting it and any person responsible for the drawing up thereof shall be guilty of an offence against these regulations.”.

Substitutes
regulation 18
of the principal
regulations.

8. For regulation 18 of the principal regulations there shall be substituted the following:

“Costings
of locally
manufac-
tured
goods.

18. (1) No locally manufactured commodity to which this regulation applies shall be released by a manufacturer to any person before the relative certificate of costings has been submitted to, and approved by, the Director, in such form and manner as the Director may require.

(2) This regulation shall apply to such commodities as may from time to time be specified by the Director by Order published in the Gazette.”.

Deletes
regulations 21
and 22 of the
principal
regulations.

9. Regulations 21 and 22 of the principal regulations are hereby deleted.

Amends
regulation 23 of
the principal
regulations.

10. Regulation 23 of the principal regulations shall be amended as follows:

(a) in paragraph (1) thereof, immediately after the words “made under these regulations” there shall be inserted the words “or otherwise imposed by or under these regulations”;

(b) for paragraphs (4), (5), (5A) and (6) thereof there shall be substituted the following:

“(4) Any person guilty of an offence against these regulations shall be liable —

(a) on a first conviction, to a fine (*multa*) of not less than fifty pounds but not exceeding two hundred and fifty pounds;

(b) on a second conviction, to a fine (*multa*) of not less than one hundred pounds but not exceeding five hundred pounds so however that if the second offence is committed within twelve months from the first conviction the offender shall be liable to the penalty contained in sub-paragraph (c) of this paragraph;

(c) on a further conviction, to a fine (*multa*) of one thousand pounds:

Provided that where the offence is one as is provided in paragraph (3) of regulation 7 or in paragraph (5) of regulation 17, or consists in giving information which is incorrect or misleading as provided in paragraph (2) of regulation 14, the Court may, and if so requested by the prosecution shall, in addition to any other punishment sentence the offender to imprisonment for a term of not less than ten days and not exceeding six months.

(5) In addition to the punishments laid down in the foregoing provisions of this regulation, the Court shall, on the demand of the prosecution —

(a) in the case of a second conviction, order the suspension of the offender's licence for a period of not less than one week and not more than three months; and

(b) in the case of a further conviction, order the cancellation of any licence held by the offender and relating to any trade or business and of any licence relating to the premises to which the offence relates.

(6) In every case of conviction of an offence against these regulations, the Court may, and if so requested by the prosecution shall, order the forfeiture of the commodities to which the offence relates”;

(c) for paragraph (8) thereof there shall be substituted the following:

“(8) The provisions of the Probation of Offenders Act, 1957, shall not be applicable in respect of any offence against the provisions of these regulations.”; and

(d) for paragraph (10) thereof there shall be substituted the following:

“(10) Where an offence against these regulations is committed by, or an act or omission amounting to an offence may be attributed to, an individual acting in the name, or on behalf or in the interest of a partnership or an association or other body or group of persons, or where action is taken against an individual by virtue of his liability as a director, manager, secretary or other similar officer of such body, association or group as provided in section 13 of the Interpretation Act, 1975, or by virtue of any liability under section 10 of the Act, and it results that an act or omission amounting to an offence against these regulations has occurred, the provisions of this section relating to the suspension or cancellation of any licence held by the offender or other person as aforesaid shall apply also to any licence held by or in the name, or on behalf or in the interest of the partnership, association or other body or group of persons of which the offender or other person as aforesaid is a director, manager, secretary or other officer or in whose name or interest or on whose behalf such person was acting, and such licence shall equally be suspended or cancelled accordingly.”.

Adds new
regulation 23A
to the principal
regulations.

11. Immediately after regulation 23 of the principal regulations there shall be added the following new regulation:

“Trader to
be respon-
sible for
offences by
employees
etc.

23A. Every trader shall take all such steps as are required to ensure full compliance with all the provisions of these regulations; and even where any contravention of or non-compliance with any provision of these regulations may be attributed to any person in the employment of such trader or in the exercise of any act or function authorised or permitted by the trader, such trader shall also be guilty of that offence unless he proves that he took all reasonable steps to prevent the commission of the offence.”.