

PRICE CONTROL ACT 2004

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REPUBLIC OF NAURU
(No. 9 of 2004)

An Act

To confer powers of control over prices and charges, and for connected purposes.

(Certified: 2nd September, 2004)

BE IT ENACTED BY THE PARLIAMENT OF NAURU AS FOLLOWS:-

Short Title

1. (1) This Act may be cited as the **Price Control Act 2004**.
- (2) This Act shall come into force on a date to be notified by the Minister in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires:-

“**Board**” means the Prices Control Board established under Section 3;

“**business**” includes any trade, profession, or vocation, and the expression “in the course of business” shall be construed accordingly;

“**charge**” includes a charge for the performance of services being in the course of business;

“**inspector**” means a person appointed under the provisions of Section 8 of this Act;

“**maximum prices**” means the maximum price for goods or services fixed under the provisions of Section 5 of this Act;

“**officer**” when used with reference to an organisation includes any member of a branch thereof;

“**person**” includes a corporation, a body of persons whether incorporated or otherwise as well as individuals;

“**price**” includes a charge of any description and includes any price for the sale of goods, being prices in the course of business;

“**retail**” when used in relation to any sale; means a sale by a retailer to a consumer;

“**retail price**” means the price paid or payable for goods sold by retail;

“**retailer**” means a trader who sells goods to consumer;

“**Secretary for Finance**” means the Public Service head of the Department of Finance or a public office acting in his place;

“**services**” includes -

- (a) any service supplied or carried on for
- (b) any rights under an agreement for the provision of board or lodging;

“**trader**” means any person who in connection with any business carried on by him sells, has sold, or proposes to sell any goods or who supplies or who carried on any service;

“**wholesale**” means the sale or supply of goods to a person for the purpose of sale or for use by such person in his trade or business;

“**wholesale price**” means the price paid or payable for goods sold by wholesale.

Establishment and Membership of Board

3. (1) There is hereby established a board to be known as the Price Control Board. The Board shall consist of three members who shall be appointed by the Cabinet and shall hold office for a term not exceeding five years.

(2) The Secretary for Finance shall be the ex-officio Secretary to the Board. The Secretary shall not be entitled to vote at meetings of the Board.

(3) All orders or directions made or given by the Board shall be given under the hand of the Secretary.

(4) The Board shall in the exercise of its functions under this Act, act in accordance with any general or special directions as to the policy to be followed given to it from time to time by the Cabinet and published in the Gazette.

Board to Prescribe its Own Procedure

4. Subject to the provisions of this Act, the Board may regulate and determine its own procedures.

POWERS TO CONTROL PRICES AND CHARGES

5. (1) The Board may, with the approval of Cabinet, fix and declare the maximum price or charges by any person (including the government or any instrumentality of the government or any cooperative society registered under the laws applicable to Nauru) in the course of business for the sale of goods or the performance of services generally.

(2) Before making any order under this section, the Board shall, give 14 days notice in the manner prescribed in the following subsection to the person selling the goods or performing the services and shall afford to such person an opportunity of making representation to the Board, which shall be in writing.

(3) If it appears to the Board to be impracticable to give notice under subsection 2 to all the persons selling the goods or performing the services, it shall instead give 14 days notice by publication in the gazette and in such other ways as it may consider appropriate of its intention to make the order and shall afford to all those persons an opportunity of making representation to it which shall be in writing.

(4) The Board shall consider the representation made under the preceding subsection and may maintain or vary the prices or charges, so however, that the prices or charges shall not increase.

(5) If the Board varies the prices or charges under the preceding subsection it shall issue a notification in the Gazette notifying such variation.

MANNER IN WHICH MAXIMUM PRICE FIXED

6. (1) An order made under the provisions of subsection 1 of section 5 may direct that the maximum price shall not exceed a specified sum or may prescribe the manner in which the maximum price shall be ascertained and may -

- (a) fix different maximum prices for the same class of goods or services having regard to the terms upon which the conditions and circumstances in which the goods are manufactured, imported or sold or the services provided; and
- (b) prescribe alternative methods by which the maximum price may be ascertained for the same or different classes of goods.

THE BOARD MAY CANCEL OR VARY ORDER

7. The Board may, with the approval of the Cabinet, by order or by notice in writing addressed to any trader, cancel or vary the terms of any order made under the provisions of subsection 1 of Section 5 as regards the goods or services specified from the operation of such order.

APPOINTMENT OF INSPECTORS

8. (1) The Board may appoint such number of Inspectors as it may deem fit for the purposes of this Act.

(2) It shall be the duty of an Inspector –

- (a) to exercise under the special or general directions of the Board the powers conferred by the provisions of subsection 1 of section 9.
- (b) to report to the Board, any breach of the provisions of this Act which comes to his notice;
- (c) to receive and investigate, with the approval of the Board, any complaints from the aggrieved parties;
- (d) if so authorized in writing by the Board, either generally or specially, to institute any legal proceedings in respect of any offence against any of the provisions of this Act;
- (e) to give such assistance to the Board in execution of its powers and functions under this Act, as it may from time to time by order direct.

POWER TO OBTAIN INFORMATION

9. (1) The Board or an Inspector may, for the purposes of this Act, by notice in writing, require any person -

- (a) to furnish, whether by periodical returns or by other means, such returns or other information as may be described in the notice;
- (b) to keep such records as may be so specified or described in respect of any business carried on by him or them;
- (c) to produce for inspection to the Board or to an Inspector any documents so specified or described in any notice given under this subsection.

(2) The Board or an Inspector may, for the purposes of this Act, by order or by notice in writing -

- (a) require any class of persons specified in the order or notice to furnish to the Board or to an Inspector such periodical or other returns containing information as may be so specified or described; or
- (b) require any person carrying on a business or any class of persons who carries on business to keep such records as may be so specified or described.

- (3) The Board or an Inspector may use information from the Nauru Bureau of Statistics.
- (4) The Board, as it deems fit, shall publish through the Gazette, Radio or Media information on a fortnightly basis about fixed or prevailing comparative prices of various items and services.
- (5) (a) The Board is empowered to impose, subject to the approval of Cabinet, temporary rationing of consumer items which are in short supply.
(b) The Board shall revoke any and all orders made under clause (a) subsection 5 of section 9, upon the report of an Inspector, that such order is unnecessary.

NON-COMPLIANCE WITH THE PROVISIONS OF THE ACT

10. Any person who –

- (1) refuses or willfully neglects to comply without reasonable cause with any order or notice under this Act;
- (2) in furnishing any return or other information in compliance with such an order or notice, makes any statement which he knows to be false in any material particular or recklessly makes any statement which is false in a material particular;
- (3) with intent to deceive, produces in compliance with such an order or notice any document which is false in a material particular;
- (4) in keeping any records in compliance with any requirement of this Act knowingly or willfully makes any entry which he knows to be false in a material particular or makes use of any such entry which he knows to be false; or
- (5) in furnishing information in connection with an application for approval or consent under the provisions of this Act makes any statement or produces, or makes use of any document, which to his knowledge is or may be misleading, false or deceptive in a material particular shall be guilty of an offence.

EXEMPTIONS FROM GIVING EVIDENCE BY CERTAIN PERSONS

11 (1). No person shall be compelled in complying with any such notice to give any information which he could not be compelled to give in evidence in proceedings before the court.

(2) Nothing in this section shall be taken to require a person who has acted as a Barrister and Solicitor and Pleader for any person to disclose any privileged communication made to him in that capacity.

INVOICE TO BE SUPPLIED TO PURCHASER

12. A trader who sells by wholesale any goods the maximum price of which has been fixed by an order made under the provisions of subsection 1 of section 5 shall supply at the time of sale to every purchasers an invoice -

- (a) the name and address of the seller and purchaser;
- (b) the date;
- (c) a description of goods;
- (d) quantity of goods;
- (e) the price charged;
- (f) such other particulars as the Board may by order require generally or with reference to certain goods or class of goods.

RECORDS TO BE MAINTAINED

13. (1) Every trader shall keep to the satisfaction of the Board such records and accounts, including stock and costing records as are customary and proper in the type of business carried on by the trader.

(2) The Board may, by notice in writing direct any trader to keep such other records and accounts as are specified in the notice.

(3) No trader shall, without the consent of the Board, destroy any document whatever relating wholly or in part to any business carried on by the trader or to any notified goods or services until the period of 3 years has elapsed since the documents originated.

REFUSAL TO SELL AT MAXIMUM PRICE

14. (1) No person carrying on the business of sale of goods and having goods available and no person engaged in supplying or carrying on any service shall, except with reasonable cause, the onus of proof which shall be upon him, refuse to sell goods or supply any service to any person tendering immediate payment at the maximum price fixed and declared for such goods or services by an order made under the provisions of subsection (1) of Section 5.

PRICES TO BE INDICATED

15. (1) A trader having goods for sale in respect of which an order has been made under the provisions of subsection (1) of Section 5 shall keep displayed in a prominent place on the premises, in which goods are kept or offered for sale, a list showing clearly for the information of the public the maximum price of such goods fixed by such order.

(2) The Board may cause lists of such maximum prices to be printed in such languages as it may deem expedient and may require any trader to exhibit the same in the manner mentioned in subsection 1.

(3) The Board may with regard to any specified goods by order require that a person having such goods for sale by retail shall cause the same to be legibly and conspicuously marked with the price for the information of the public.

PROHIBITED ACTS

16. No person shall -

- (1) sell or buy or agree to offer to sell or buy goods at a greater price than the maximum price fixed and declared by an order made under the provisions of subsection (1) of Section 5;
- (2) provide or agree to provide or obtain or agree to obtain services at a greater price than such maximum price;
- (3) in the course of business apply different methods of fixing or ascertaining the prices of goods or services with intent to evade the provisions of this Act;

POWER TO REQUIRE INFORMATION OF INCREASES

17. (1) The Board may, with the approval of the Cabinet, in any case or class of cases appears appropriate, by order, make provision to require that at least 6 weeks' written notice is given to it by any person of any proposed increase of any price or charge in time to consider whether the Board should exercise the powers conferred by this Act in order to restrict those increases.

(2) Any implementation of the proposed increase in price or charge until the end of the end of the period given for a consideration of the proposed increase by the Board, shall amount to a contravention of the provisions of this Act.

(3) Notwithstanding anything in subsections (1) and (2) above, the Board shall have the discretionary power to vary or fix the new price, for the time being pending its final decision in this regard within the prescribed time limit of six weeks provided such variation or fixation of the new price is in the public interest.

TRANSACTIONS NOT INVALID

18. A transaction shall not be invalid by reason only that it involves an offence under this Act; but the person receiving a price or charge in excess of that fixed and declared under the provisions of this act shall be liable to pay the excess of any price or charge so received by

him over such fixed and declared price or charge unless the person paying the price or charge in excess of that fixed price himself has aided, abetted, or procured the commission of the offence.

OFFENCES

19. (1) A person who contravenes or fails to comply with any of the provisions of this Act or of any order, notice or requirement lawfully made or given thereunder shall be guilty of an offence.

(2) Where an offence under this Act committed by a corporation or a body of persons whether incorporated or not is proved to have been committed with the knowledge, consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar official of such corporation or a body of persons whether incorporated or not who was purporting to act in any such capacity, he, as well as the body corporate shall be liable to be proceeded against and on conviction shall be liable accordingly.

PENALTIES

20. (1) Every person who commits an offence under this Act shall be liable on conviction to a fine not exceeding \$150,000 and or imprisonment for a period not less than 1 month and not greater than 3 years;

(2) In addition to the penalties prescribed under subsection (1) of section 20, every person convicted under this Act shall have their business licence and or business registration revoked.

REGULATIONS

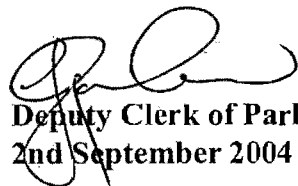
21. The Cabinet may make regulations generally for the purpose of carrying out the provisions of this Act.

EXCLUSIONS

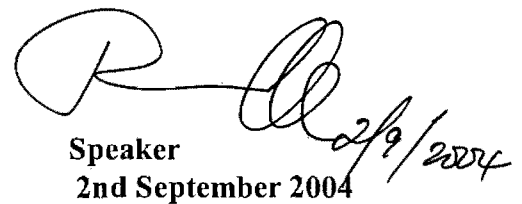
22. (1) The provisions of this Act shall not apply –

- (a) to any goods and services where such application would be inconsistent with any international agreement or arrangement to which Nauru is a party;
 - (b) to the price of goods exported from Nauru;
 - (c) to any changes relating or incidental to international freight and passenger traffic;
 - (d) in so far as it relates rents, rights to a lease or licence of non-phosphate bearing land and phosphate bearing land granted under the Lands Act;
 - (e) to royalties paid under the Nauru Phosphate Royalties (Payment and Investment) Act;
- (2) The Cabinet may, by order, exclude from the provisions of this Act or any part of this Act such person or classes of persons as it may consider necessary or desirable.

I hereby certify that the above is a fair print of a Bill for an Act entitled **Price Control Act 2004**, has been passed by Parliament of Nauru and is now presented to the Speaker for for his Certificate under Article 47 of the Constitution.


Deputy Clerk of Parliament
2nd September 2004

Pursuant to Article 47 of the Constitution, I, **RUSSELL KUN**, Speaker of Parliament, **hereby certify** that the **Price Control Act 2004**, has been passed by Parliament of Nauru.


Speaker
2nd September 2004