

ANGUILLA

REVISED STATUTES OF ANGUILLA

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DISTRIBUTION AND PRICE OF GOODS ACT

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DISTRIBUTION AND PRICE OF GOODS ACT

TABLE OF CONTENTS

SECTION

1. Interpretation
2. Minister may fix maximum price of goods
3. Appointment of Advisory Committee and making of regulations
4. Supply Officer may fix landed costs
5. Proportionate prices
6. Sale at more than maximum price or upon conditions, etc., prohibited
7. Averaging of prices
8. Purchase of excessive quantity
9. Refusal to sell
10. Price lists to be posted
11. Prices to be marked on goods
12. Delivery of invoice
13. Furnishing of information, etc., to authorised officer
14. Powers of search, inspection and seizure
15. Records and statutory declarations
16. Power to requisition goods
17. Power to direct distribution and sale of essential goods
18. Sale by order of the Supply Officer
19. Liabilities of officers of corporate bodies
20. Appearance and plea by corporation
21. Liability of employers, agents and servants
22. Burden of proof
23. Compensation to purchaser of goods at price in excess of maximum price
24. Intimidation
25. Penalty
26. Prosecution of summary offences
27. Citation

DISTRIBUTION AND PRICE OF GOODS ACT

Interpretation

1. In this Act—

"authorised officer" means any person appointed by the Governor to be an authorised officer under this Act;

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

"export" means to take or be concerned in taking out of Anguilla or the territorial waters thereof, and "exportation" shall be construed accordingly;

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

"hoard" means laying aside for the purpose of accumulating any article;

"import" means to bring, or be concerned in bringing, into Anguilla or the territorial waters thereof, and "importation" shall be construed accordingly;

"landed cost" means the totality of the following—

(a) the C.I.F. value of goods as accepted by the Comptroller of Customs;

(b) import duty;

(c) landing charges and cost of labour for storing;

(d) cost of remittance to the place of payment; and

(e) an additional sum not exceeding 1% of paragraph (a) as to the Supply Officer may appear to be reasonable;

or, failing evidence of the C.I.F. value of such goods, such an amount as the Supply Officer may fix as the "landed cost";

"maximum price" means the maximum price of goods fixed by the Minister in accordance with the provisions of section 2;

"Minister" means the Minister of Government for the time being responsible for the subjects of trade and industry;

"piece goods" includes all woven or knitted textile goods in continuous lengths of any class purchased or sold by the yard, and all goods known in the dry goods trade as "piece goods";

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

"price-controlled goods" means goods the selling price of which is controlled by an Order made under section 2;

"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;

"Supply Officer" means the person appointed as Supply Officer of Anguilla by the Governor for the purposes of this Act, and includes any person acting for or on behalf of the Supply Officer;

"trader" means any person who carries on the business of selling goods and includes—

(a) 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;

(b) a pedlar; and

(c) a commission agent;

"wholesale" means sale by gross or in bulk and includes—

(a) as regards an imported article, the sale of such article in quantities not less than that specified in any Order made under section 2, and failing such specification, in any quantity not being less than that contained in a bag, barrel, case, box, cask or other container whatever in which the same is ordinarily or was originally imported into Anguilla; or, as regards piece goods, not less than one piece thereof; and

(b) as regards an article, the produce or manufacture of Anguilla, the sale of such article in quantities not less than that specified in any Order made under section 2.

Minister may fix maximum price of goods

2. (1) The Minister, in so far as it appears to him to be necessary for the purpose of maintaining, controlling or regulating supplies so as to secure a sufficiency of those essential to the well-being of the community, their equitable distribution and their availability at fair price may from time to time, by Order, fix and declare the maximum price for which any goods may be sold by retail or wholesale, either throughout Anguilla, or in any special part or parts 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 the part of Anguilla in which such goods are sold to the consumers; and

(b) fix alternate 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.

(4) An Order under this section is a regulation.

Appointment of Advisory Committee and making of regulations

3. (1) The Minister may appoint an Advisory Committee to advise him on the making of Orders under section 2 and may make regulations prescribing the powers and duties of the Advisory Committee and of the members thereof.

(2) Regulations made under this section may provide for the indemnity of members of the Advisory Committee in the performance of their duties under such regulations.

(3) Regulations made under this section may prescribe for any contravention thereof or failure to comply therewith a fine not exceeding $1,000 on summary conviction.

Supply Officer may fix landed costs

4. Any person who desires to have the landed cost of any price-controlled goods fixed by the Supply Officer shall submit to the Supply Officer such particulars, information and samples as the Supply Officer may require, and the Supply Officer shall thereupon proceed to fix such landed costs.

Proportionate prices

5. Where the quantity of goods sold or offered for sale is greater or less than the unit quantity specified in the Order made under section 2, 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.

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

6. (1) No person shall, in respect of any goods the maximum price of which has been fixed by an Order under the provisions of section 2—

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

(b) impose, whether before or 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, including the purchase of any other goods, the payment of any premium or other like sum, or the giving of any consideration other than the immediate payment of the permitted purchase price; or

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

(2) Any person who contravenes subsection (1) is guilty of an offence against this Act and is liable on summary conviction to a fine of $25,000 or to imprisonment for a term of 2 years, or to both.

Averaging of prices

7. Notwithstanding the provisions of any Order made under section 2 but subject to the provisions of section 6, the holder of a stock of identical goods which may have been received on different consignments and at varying prices may, with the consent of the Supply Officer, fix an average price for such goods, and the price approved by the Supply Officer shall be the maximum wholesale or retail price, as the case may be, for such goods in the hands of such wholesaler or retailer, as the case may be.

Purchase of excessive quantity

8. No person carrying on a retail business shall at any one time, without the consent in writing of the Supply Officer, purchase from a wholesaler a larger quantity of any price-controlled goods than the quantity which it is customary for him to purchase for the purpose of his retail business.

Refusal to sell

9. (1) No person carrying on a retail business in Anguilla shall, without reasonable cause the proof whereof shall lie on him, refuse to sell by retail for cash a reasonable quantity of any article demanded and which is required for immediate use or consumption by an intending purchaser; and for the purposes of this subsection a reasonable quantity shall be the requirements of the purchaser and his household for normal use or consumption for a period of 2 days.

(2) No person carrying on a wholesale business in Anguilla shall, without reasonable cause the proof whereof shall lie on him, refuse to sell for cash in wholesale quantities to a customer, being a retailer, the normal quantity of any articles usually sold to such retailer.

(3) A vendor shall be deemed to refuse without reasonable cause to sell any goods if he falsely denies that he has such goods, or uses any words, or gives any other indication calculated to lead a person who wishes to buy such goods to suppose erroneously that such vendor has not such goods.

(4) A vendor shall be deemed to have reasonable cause to refuse to sell any price-controlled goods if such sale would, having regard to the quantity required or any other consideration, be contrary to the normal practice of his business, or would involve a breach of some obligation lawfully binding on him, or would interfere with arrangements made by him for an orderly disposal of his stocks among his regular customers, but the provisions of this subsection shall not apply to vendors in public markets.

(5) Any person who contravenes or fails to comply with the provisions of this section is guilty of an offence against this Act and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 3 months or to both.

Price lists to be posted

10. (1) Every vendor of any price-controlled articles shall keep posted up in public view in some conspicuous place in his business premises a list in good and readable condition showing the approved maximum prices of such articles as shall from time to time be prescribed.

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

Prices to be marked on goods

11. (1) Every vendor of price-controlled goods which are exposed for sale by retail shall clearly mark on such goods or on the wrappings or containers of such goods, so as to be clearly seen and read by intending purchasers, the retail prices at which such goods are offered for sale.

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

Delivery of invoice

12. (1) Every trader who sells any price-controlled goods whether by wholesale or retail shall on request tender at the time of sale to every purchaser of such goods from him a bill or invoice in the prescribed form showing the date of sale, a description of the goods sufficient to identify them, 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) is guilty of an offence against this Act.

(3) The Supply Officer may by regulation prescribe the form of the bill or invoice to be delivered to the purchaser under the provisions of subsection (1).

Furnishing of information, etc., to authorised officer

13. (1) An authorised officer may—

(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 for the aforesaid purposes; and

(e) take possession of any document which appears to him to constitute *prima facie* evidence of a breach of any of the provisions of this Act or of any Order made thereunder.

(2) Any person who—

(a) assaults, obstructs, impedes, hinders, molests or refuses admission to an authorised 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 authorised officer any false information relating to goods;

is guilty of an offence against this Act.

Powers of search, inspection and seizure

14. (1) If, with respect to any premises, the Supply Officer has reasonable ground for suspecting that an offence against this Act or any Order made thereunder has been or is being committed, and that evidence of the commission of the offence is to be found at such premises, and is satisfied—

(a) that it is essential in the public interest that the premises should be searched for the purpose of obtaining such evidence; and

(b) that the evidence is not likely to be found at the premises unless they are forthwith searched;

the Supply Officer may, by written order under his hand, authorise any person or persons named in the Order, and any police officer, to enter the premises, if necessary by force, and to search the premises and to seize and take away any article found in the premises which the person or persons or police officer as aforesaid has or have reasonable grounds for believing to be evidence of the commission of such offence.

(2) The Supply Officer or any authorised officer, police officer or a person authorised in writing by the Supply Officer, may, at any time during the business hours of any shop in which price-controlled goods are offered for sale, either by wholesale or retail, enter any part of the shop in which such goods are so offered for sale, and inspect such goods, and any price list or mark indicating price relating thereto.

(3) Any person who assaults, obstructs, impedes, hinders, molests or refuses admission to the Supply Officer, any authorised officer, police officer or person authorised by the Supply Officer in the execution of his duty under this section, is guilty of an offence under this Act.

Records and statutory declarations

15. (1) Every trader dealing in price-controlled goods shall keep reasonable records of all purchases of such goods.

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

(3) The Supply Officer may order any person to make a statutory declaration, within such time as may be specified in the order, giving full and accurate particulars of all price-controlled articles mentioned in the order belonging to him or in his possession, power or control, and the place of storage of such articles.

(4) Any person who contravenes or fails to comply with any of the provisions of this section or of any notice or order thereunder, is guilty of an offence against this Act.

Power to requisition goods

16. (1) Where it appears to Executive Council necessary for the purpose of ensuring a sufficient supply of foodstuffs or essential commodities for use or consumption in Anguilla or for their equitable distribution therein, the Minister may empower the Supply 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 Supply 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 Supply 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 the proof whereof shall lie on him, to deliver such goods in accordance with the terms of the notice of requisition, any authorised officer specially authorised in that behalf in writing by the Supply Officer may enter the premises whereon such goods are kept and seize and take them away.

(5) Any person who contravenes or fails to comply with any of the provisions of this section or of any notice thereunder is guilty of an offence against this Act and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 3 months or to both.

Power to direct distribution and sale of essential goods

17. Where it appears to Executive Council necessary for the purpose of ensuring an equitable distribution of any foodstuffs or essential commodities in Anguilla or any part thereof, the Minister may by order authorise the Supply 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 Supply Officer.

Sale by order of the Supply Officer

18. (1) Whenever a trader possesses a stock of any price-controlled goods of which there is otherwise a shortage in the local market, the Supply Officer may, without requisitioning such goods, by order in writing require such trader to sell to such persons as shall be named in the order, the quantities therein specified of such goods; and upon tender of immediate payment of the maximum permitted price of the quantities of the goods so specified, such trader shall sell such quantities in accordance with the order.

(2) Any trader who, without reasonable excuse, the proof whereof shall lie on him, fails to comply promptly with the order of the Supply Officer upon tender of the purchase price by a purchaser named in the order is guilty of an offence against this Act.

Liabilities of officers of corporate bodies

19. 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 is 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.

Appearance and plea by corporation

20. (1) Where a corporation is charged with an offence against this Act, such corporation may appear and plead to the charge 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.

(2) Any complaint 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 is no such office in Anguilla, by leaving it at, or sending it by post to, the corporation at any place in Anguilla at which it trades or conducts business.

(3) 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 authorised 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.

(4) 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, agents and servants

21. Every person shall be liable for the acts and omissions of his partners, agents and servants in so far as they relate to the business of such person and, if any 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, as the case may be, 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.

Burden of proof

22. (1) The burden of proving that a case comes within any exception shall be on the person alleging the same.

(2) On the prosecution of any person for the sale of any price-controlled goods at a price above the maximum price, when the sale or agreement or offer to sell the goods in question, and the price at which it was made, have been proved, then the burden of proving that the price at which the goods were sold or agreed or offered to be sold was not in excess of the maximum price shall be on the person charged.

(3) A certificate signed by the Supply Officer certifying that goods are of a class or description controlled under the provisions of an Order made under section 2, and certifying the

maximum price thereof, shall be *prima facie* evidence in all courts of justice, and for all purposes, of the facts therein certified, without the necessity of adducing proof of the signature appearing on such certificate.

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 Supply Officer or to a police officer within 48 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 of such goods 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.

Intimidation

24. (1) No vendor shall in any manner intimidate or victimise or attempt to intimidate or victimise any person who has given or is about to give evidence against such vendor in any proceedings under this Act, or who has been or is in any way concerned in the prosecution or intended prosecution of any vendor under this Act.

(2) Any person contravening the provisions of subsection (1) is guilty of an offence against this Act and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 3 months or to both.

Penalty

25. Any person guilty of an offence against this Act for which no penalty is expressly provided is liable on summary conviction to a fine of $1,000 or to imprisonment for a term of 2 months.

Prosecution of summary offences

26. Every prosecution for a summary offence under this Act shall be instituted in the name of the Supply Officer and may be conducted by the Supply Officer or by any person specially authorised in writing by the Supply Officer in that behalf.

Citation

27. This Act may be cited as the Distribution and Price of Goods Act, Revised Statutes of Anguilla, Chapter D30.

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