

**1979 No. 229****PRICES****The Prices and Charges (Safeguard for Basic Profits)  
Regulations 1979**

<i>Made - - - -</i>	<i>5th March 1979</i>
<i>Laid before Parliament</i>	<i>6th March 1979</i>
<i>Coming into Operation</i>	<i>28th March 1979</i>

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The Secretary of State, after consulting in accordance with subsection (2) of section 9 of the Price Commission Act 1977<sup>(a)</sup> with the Price Commission and representatives of persons therein referred to, in exercise of his powers under subsection (1) of that section and section 22(3) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

### Preliminary

#### *Citation, commencement, interpretation and revocation*

1.—(1) These Regulations may be cited as the Prices and Charges (Safeguard for Basic Profits) Regulations 1979 and shall come into operation on 28th March 1979.

(2) In these Regulations—

“the 1973 Act” means the Counter-Inflation Act 1973<sup>(b)</sup>;

“the 1977 Act” means the Price Commission Act 1977;

“bank, finance house or similar institution” means a person (other than a building society incorporated under the Building Societies Act 1962<sup>(c)</sup> or under the enactments repealed by that Act) whose ordinary business includes the business of banking, the business of lending money, the letting of goods under hire purchase agreements, or the selling of goods under conditional sale agreements;

“current profit margin” has the meaning given by regulation 6;

“depreciation” has the meaning given by regulation 11;

“distributor” means a person who carries on in the course of business activities falling within Order XXIII (other than the wholesale slaughtering of animals for human consumption, leasing industrial or office machinery, the hiring of furniture, radio and television sets and other domestic appliances or the activity of bakers or processors of scrap metals) or falling within minimum list heading 894 of Order XXVI (other than the repairing of motor vehicles) of the Standard Industrial Classification;

“goods” includes services;

“manufacturer” means a person who carries on in the course of business activities falling within Orders II, III (other than the quick freezing of meat, poultry or fish, the curing of bacon or ham and the preparation of oven-ready poultry), IV to XXI and XXII (other than travel ticket agents) of the Standard Industrial Classification and bakers;

“the notification order” means the Prices and Charges (Notification of Increases) Order 1978<sup>(d)</sup>;

“price” includes charge;

“provider of services” means a person who carries on in the course of business activities falling within minimum list headings 864 and 865 of Order XXIV or within Order XXV (other than the provision of school meals) or within Order XXVI (other than minimum list heading 894) of the Standard Industrial Classification or the hiring of furniture, radio and television sets and other domestic appliances, or the leasing of industrial and office machinery or the repairing of motor vehicles or the activities of a travel ticket agent;

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<sup>(a)</sup> 1977 c. 33; section 9 was amended by the Price Commission (Amendment) Act 1979 (c. 1).

<sup>(b)</sup> 1973 c. 9.

<sup>(c)</sup> 1962 c. 37.

<sup>(d)</sup> S.I. 1978/1083.

“the safeguard” is the safeguard for basic profits described in regulation 2 below;

“the Standard Industrial Classification” means the edition thereof published by Her Majesty’s Stationery Office in 1968, as amended by Amendment List No. 1 so published in 1977, together with the alphabetical list of industries so published in 1968 as amended by Amendment Lists Nos. 1 and 2 so published in 1970 and 1977 respectively;

“total costs” has the meaning given by regulation 10;

“turnover” has the meaning given by regulation 12 and

“unit” means an undertaking or part of it described in paragraph (1) of regulation 9.

(3) For the purposes of these Regulations, the amount of any price shall be the net amount of that price.

(4) Save as provided by section 1(9) of the Price Commission (Amendment) Act 1979(a), the Prices and Charges (Safeguard for basic profits) Regulations 1977(b) are hereby revoked.

#### *Application of Regulations*

2.—(1) The safeguard under these Regulations is a safeguard for basic profits which is relevant to any person who is a manufacturer, a provider of services, a bank, finance house or similar institution, a person in respect of a contract falling within article 5 of the notification order or a distributor and who is subject to such a notice as is mentioned in section 13 of the 1977 Act (which relates to the enforcement of orders of the Secretary of State in consequence of indications or advice contained in reports of the Price Commission in pursuance of directions given by the Secretary of State).

(2) Nothing in these Regulations affords a safeguard for the profits of any unit other than the unit in the course of the business of which the price in question is charged.

#### **The Safeguard**

##### *Safeguard for manufacturers and providers of services*

3. The safeguard in the case of a manufacturer or provider of services is, in relation to a product, except as provided by regulation 5, a current profit margin of 3 per cent.

##### *Safeguard for distributors*

4.—(1) The safeguard in the case of a distributor is a margin of 2 per cent of turnover.

(2) If at any time a person’s profit affords a margin in the then latest year of account which is less than the margin referred to in paragraph (1) above, nothing in, or done under, section 13 of the 1977 Act shall have effect so as to restrict the prices of that person.

(3) In the case of a distributor of whom the proportion which his sales in the relevant unit in the year of account referred to in paragraph (2) above bears to the average of the stock of that unit at the beginning of that year and at the end of that year does not exceed 10:1, for the reference in paragraph (1) above to 2 per cent there shall be substituted a reference to the percentage specified in column 2 of the following table as applicable to the range of proportions specified in column 1 of that table within which that proportion falls.

(a) 1979 c. 1.

(b) S.I. 1977/1282.

TABLE

Column 1	Column 2
Proportion of sales to stock	Margin of turnover
Under 10:1 and not under 9:1	2.5 per cent
Under 9:1 and not under 8:1	3 per cent
Under 8:1 and not under 7:1	3.5 per cent
Under 7:1 and not under 6:1	4 per cent
Under 6:1 and not under 5:1	4.5 per cent
Under 5:1	5 per cent

(4) In this regulation except as provided by regulation 5, "margin" means a margin on turnover after deduction of expenses; and subject to regulation 5 "expenses" shall be ascertained in the like manner as total costs but as if sub-paragraph (d) of paragraph (1) of regulation 10 and paragraphs (2) and (3) of that regulation were omitted.

*Adaptation of regulations 3 and 4 for unincorporated enterprises*

5.—(1) Except in their application to a body corporate, regulations 3 and 4 shall have effect as if total costs for the purposes of determining the current profit margin referred to in regulation 3 and expenses for the purpose of determining the margin referred to in regulation 4 included the amount determined under paragraph (2) below in respect of the year of account last ended before the date when the safeguard in question falls to be applied.

(2) The amount referred to in paragraph (1) above is 50 per cent of the greater of—

- (a) the amount shown in audited accounts as available for distribution as net profit in respect of a year of account; and
- (b) the amount withdrawn in that year of account on account of net profit in respect of that or any previous year of account,

apportioned as necessary; and for the purposes of this paragraph, net profit includes any sum (other than a contribution to a pension fund) paid for the benefit of any person entitled to participate in profits or to any other person at his request or to the wife or husband of any such person and the value of any benefit provided for any such person or the wife or husband of any such person otherwise than in money.

*Current profit margin*

6. For the purposes of these Regulations, the current profit margin at any time is the excess of the price in question over the total costs expressed as a percentage of those costs.

*Loading of increases*

7. In a case where a notice under section 13(1) of the 1977 Act relates to more than one price, a person may apply different increases to different prices.

*Escalation and variation of price clauses*

8.—(1) In relation to any person in respect of a contract falling within article 5 of the notification order, the safeguard is that provided by regulation 4; and that regulation shall have effect accordingly but as if for references to a

distributor there were substituted references to such a person and for the reference to 2 per cent of turnover there were substituted a reference to 3 per cent of turnover and paragraphs (2) and (3) were omitted.

(2) Regulation 3 shall not have effect in relation to a contract falling within the said article 5.

#### Calculation of safeguard

##### *Meaning of "unit"*

9.—(1) For the purposes of these Regulations, "unit" means—

- (a) the undertaking of a person as a manufacturer, his undertaking as a provider of services, his undertaking as a distributor or his undertaking as a bank, finance house or similar institution, as the case may require; or
- (b) a part of an undertaking within sub-paragraph (a) above if the person so desires and the Price Commission are satisfied that the part constitutes an undertaking separate from other undertakings of the person and that the accounts of the parts can be reconciled with those of the person's undertaking taken as a whole and are not materially distorted by transactions conducted otherwise than at arm's length.

(2) For the purposes of this regulation, references to a person include all other persons with whom he is for the purposes of sections 5 and 6 of the 1973 Act to be treated as one by virtue of paragraph 2(1) of Schedule 3 to that Act:

Provided that if a person ceases to be so treated as one with another person, no account shall be taken of any profits or costs of that other person.

##### *Meaning of "total costs"*

10.—(1) In these Regulations, "total costs" means all costs relating to a product including depreciation but not—

- (a) disbursements or expenses not wholly and exclusively laid out or expended for the purposes of the business in the course of which they are incurred;
- (b) any capital withdrawn from or any sum employed or intended to be employed as capital in that business;
- (c) save as provided by regulation 14 below, interest; and
- (d) additional payments in accordance with section 26 of the Independent Broadcasting Authority Act 1973<sup>(a)</sup> (which relates to rental payments by television programme contractors to the Independent Broadcasting Authority).

(2) The calculation of total costs shall be made by reference to costs per unit of volume of output or, where the safeguard is to be applied in the case of more than one description of goods, may be made by reference to costs per £ of sales value and, where under these Regulations or the Regulations hereby revoked the calculation has been made by reference to costs per unit of volume of output or by reference to costs per £ of sales value, it shall be so made for all purposes of these Regulations in relation to the same price.

<sup>(a)</sup> 1973 c. 19; section 26 was substituted by section 1 of the Independent Broadcasting Authority Act 1974 (c. 16).

(3) Total costs shall be calculated at the date when the safeguard is to be applied and shall be determined by reference to the volume of output or value of sales, as the case may require—

- (a) where that date falls within the first half of an accounting year, over the preceding accounting year; and
- (b) where that date falls within the second half of an accounting year, over the period comprising the second half of the preceding accounting year and the first half of the current accounting year.

*Meaning of “depreciation”*

11. In these Regulations, “depreciation” means the aggregate amount of depreciation, calculated in accordance with generally accepting accounting principles consistently applied by the person concerned, for the period to which the calculation relates in respect of each asset used in the relevant unit in that period based on, at the option of that person, either—

- (a) the historic cost of the asset or a revaluation of the asset, determined in accordance with generally accepted accounting principles, which has appeared in annual accounts for a period ending on or before 30th September 1972 increased, in either case, by a multiple of 1.4, or
- (b) a revaluation of the asset, determined in accordance with generally accepted accounting principles, which has appeared in annual accounts.

*Ascertainment of “turnover”*

12. For the purpose of these Regulations, “turnover” is the turnover of the relevant unit during the period or year of account in question, no account being taken of any revenue arising from transactions at prices to which by virtue of section 22(2) of the 1977 Act section 10(1) or 12(3) of that Act does not apply.

*Treatment of stocks*

13.—(1) In determining total costs for the purposes of regulation 6 the cost of materials (that is to say, materials, components, consumable stores and supplies) may, at the option of the person to or by whom the safeguard is to be applied, be taken to be the cost of the materials in question or the cost of similar materials at the date by reference to which the calculation is made, that is to say, the price paid or to be paid by that person for materials last delivered to him before that date in a quantity customarily purchased by him for the purposes of the unit concerned, being a price negotiated at arm's length and representative of the current level of prices under similar transactions.

(2) In determining a margin under regulation 4, in relation to any period of 12 months, a person may deduct an amount in respect of increases in the value of stock (“stock value increase”) determined under this regulation; and if he does so or if he has done so under regulation 17 of the Regulations hereby revoked (which contains provisions corresponding with the provisions of this regulation)—

- (a) he shall apply this paragraph in each similar period ending within the 13 months following the first such period; and
- (b) after the expiry of the last period mentioned in (a) above, he may apply this paragraph as if he had not previously done so;

and for that purpose, references to stock value increase include references to a decrease in the value of stock and references to the deduction of stock value increase include references to the addition of such a decrease.

(3) In the preceding paragraph, "stock value increase", in the case of any unit, means 70 per cent of the excess of the value of the stock at the end of a period of 12 months over the value of stock at the beginning of that period and a decrease in the value of stock shall be an amount determined in a similar manner; and for the purposes of paragraph (2) above no account shall be taken of—

(a) any decrease in the value of stock below the value of stock at the beginning of the first period by reference to which the said paragraph (2) is applied in respect of that unit; and

(b) any amount by which the sum of decreases in the value of stock exceeds the sum of increases in the value of stock, being increases in respect of which the said paragraph (2) has been so applied to that unit.

(4) In the two preceding paragraphs, "stock" includes work in progress but does not include any description of security; and for the purposes of these Regulations the value of stock shall be determined in accordance with generally accepted accounting principles consistently applied by the person concerned.

(5) A person who has exercised an option—

(a) under paragraph (1) above or under paragraph (1) of regulation 17 of the Regulations hereby revoked in relation to a price shall apply it in all calculations under these Regulations in relation to that price; and

(b) under paragraph (2) above in relation to a margin shall apply it in all calculations under these Regulations but without prejudice to subparagraph (b) of that paragraph.

#### *Treatment of interest*

**14.**—(1) Subject to paragraph (2) below, for the purposes of these Regulations—

(a) interest paid by a person shall be treated as part of total costs and of expenses within the meaning of regulation 4(4)(a); and

(b) interest received by a person shall be treated as part of the turnover of the unit by or for which it is received.

(2) There shall be left out of account, for the purposes of this regulation, any interest—

(a) which is a distribution of profits; or

(b) which is payable on a loan by another unit of the same enterprise and—

(i) which is not required for the purposes of the principal activity of the unit by or for which it is paid, or

(ii) which is at a rate higher than that which would have been charged if the transaction had been at arm's length; or

(c) which, although expressed as interest, is capital expenditure; or

(d) which relates to the acquisition after 29th April 1973 of a new member in a group of companies.

(3) Notwithstanding the provisions of the preceding paragraph, interest received by a person on money belonging to another and retained by him in the ordinary course of business shall be treated as interest received within paragraph (1)(b) above.

*Treatment of indirect taxes*

**15.**—(1) In any calculation under these Regulations, there shall be left out of account the cash value of value added tax borne by the person to or by whom the safeguard is to be applied and, except as provided in paragraph (2) below, the effect of any change in other indirect taxes.

(2) In cases where indirect taxes other than value added tax would otherwise fall to be included in a calculation under this regulation, the value of sales shall be taken to be—

- (a) in the case of alcoholic beverages, 80 per cent of the value of sales, and
- (b) in the case of tobacco and tobacco products, 75 per cent of the value of sales before 1st August 1977 and 73 per cent of the value of sales on and after that date:

Provided that, if the Price Commission are satisfied, having regard to the proportion which the volume or value of a person's sales of goods bears to the volume or value of all sales of the unit as compared with the proportions which appear to them to be those which ordinarily obtain, that a percentage higher than that specified in sub-paragraph (a) or (b) above is appropriate, they may specify that higher percentage and, in relation to the calculation in question, this paragraph shall have effect accordingly.

*Matters to be left out of account*

**16.**—(1) For the purposes—

- (a) of regulation 3, there shall be left out of account any revenue arising from transactions at prices to which by virtue of section 22(2) of the 1977 Act section 5(1)(a) of that Act does not apply, and
- (b) of the margin mentioned in regulation 4, there shall be left out of account any revenue which is to be left out of account under regulation 12.

(2) For any purpose of these Regulations, there shall be left out of account in ascertaining any amount or value—

- (a) an advance by way of grant under the Highlands and Islands Shipping Services Act 1960(a);
- (b) payments made under section 26(1) of the Finance Act 1967(b);
- (c) grant made under Part I or Part II of the Industry Act 1972(c); and
- (d) grant made pursuant to arrangements under section 5(1) of the Employment and Training Act 1973(d).

*Treatment of food subsidies*

**17.** A subsidy received or to be received by a person on any food under section 1 of the Prices Act 1974(e) shall for all purposes of these Regulations be treated as part of the price received by the unit in question for that food or for any product of which that food is an ingredient.

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(a) 1960 c. 31.                      (b) 1967 c. 54.  
 (c) 1972 c. 63; Part II was amended by the Industry Act 1975 (c. 68) section 22 and Schedule 4, Part II.  
 (d) 1973 c. 50.  
 (e) 1974 c. 24; section 1 was amended by the Prices Act 1975 (c. 32).



*General provisions as to calculations*

18. Save as otherwise expressly provided in these Regulations, any amount or value shall be determined and any apportionment shall be made in accordance with generally accepted accounting principles consistently applied by the person in question and shall be consistent with annual or management accounts and practices employed by that person in relation to the relevant unit.

**Special cases***Banks, finance houses and similar institutions*

19.—(1) In relation to a bank, finance house or similar institution, the safeguard is that provided by regulation 4 (except paragraph (3)); and that regulation shall have effect accordingly but as if for references to a distributor there were substituted references to a bank, finance house or similar institution and as if for the reference to 2 per cent of turnover there were substituted a reference to 3 per cent of turnover.

(2) Notwithstanding the foregoing provisions of these Regulations, the margin referred to in regulation 4 as applied by this regulation—

- (a) in the case of a unit of which the principal business is plant and machinery leasing transactions, shall in respect of such transactions be the net income from charges received in the period in question less associated costs, including overheads, expressed as a percentage of average resources employed for the purposes of such transactions;
- (b) in the case of a unit of which the principal business is hire purchase, credit sale and conditional sale transactions, shall in respect of such transactions be net income from separately identifiable fees and charges (other than interest) expressed as a percentage of gross income; and
- (c) in the case of any other unit and, in the case of a unit within either of the two preceding paragraphs in respect of any other transaction, shall be the excess of total income (including interest on customers' current account credit balances) received in the period in question over costs, including associated overheads, expressed as a percentage of total income, no account being taken of any interest relating to such transactions as are mentioned in the two preceding sub-paragraphs;

and in any determination under this regulation no account shall be taken of transactions in sterling with any person resident outside the United Kingdom or any dealings in a currency other than sterling.

*Public sector*

20.—(1) In any calculations under these Regulations, no account shall be taken of any Government compensation or grant taken directly to revenue account by any Area Electricity Board, the British Airports Authority, the British Airways Board, the British Gas Corporation, the British Railways Board, the British Steel Corporation, the British Transport Docks Board, the British Waterways Board, the Central Electricity Generating Board, the Electricity Council, the National Coal Board, the North of Scotland Hydro-Electric Board, the Northern Ireland Electricity Service, the Post Office and the South of Scotland Electricity Board.

(2) No account shall be taken under these Regulations of any grant made to the Civil Aviation Authority in pursuance of section 10(1)(a) of the Civil Aviation Act 1971(a).

(3) In the case of the British Transport Docks Board and the Post Office, "depreciation" means depreciation within regulation 11 together with, in the case of an asset to which it relates, supplemental depreciation at replacement cost.

5th March 1979.

*Roy Hattersley,*  
Secretary of State for  
Prices and Consumer Protection.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations which supersede the Prices and Charges (Safeguard for basic profits) Regulations 1977 provide safeguards for the profits of enterprises which are subject to restriction under section 13 of the Price Commission Act 1977 following a report on an examination carried out by the Price Commission under a direction by the Secretary of State.

The safeguard for manufacturers and providers of services is a current profit margin of 3 per cent (regulation 3).

The safeguard for distributors is a margin of 2 per cent of turnover, modified in certain circumstances by reference to the ratio between sales and stocks (regulation 4).

The safeguard for banks, finance houses and similar institutions is a margin of 3 per cent of turnover (regulation 19).

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