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**STATUTORY INSTRUMENTS**

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**1979 No. 364****PRICES****The Price Marking (Bargain Offers) Order 1979**

<i>Made - - - -</i>	<i>27th March 1979</i>
<i>Laid before Parliament</i>	<i>27th March 1979</i>
<i>Coming into Operation</i>	<i>2nd July 1979</i>

Whereas the Secretary of State in accordance with the provisions of subsection (3) of section 4 of the Prices Act 1974(a), has consulted, in such manner as appeared to him to be appropriate having regard to the subject-matter and urgency of this Order, with such organisations representative of interests substantially affected by this Order as appeared to him, having regard to those matters, to be appropriate:

Now, therefore, the Secretary of State in exercise of his powers under the said section 4 hereby makes the following Order:—

*Citation, commencement and revocation*

1.—(1) This Order may be cited as the Price Marking (Bargain Offers) Order 1979 and shall come into operation on 2nd July 1979.

(2) This Order does not apply in relation to an indication of a price for the sale of pre-packed goods which are pre-packed before 1st January 1980 or to a statement relating to such goods and to which article 2 below applies where the indication or statement—

- (a) is given in such a manner that it is integral with the container in which the goods are pre-packed; or
- (b) is printed on a label which is attached to the container in which the goods are pre-packed and which carries a similarly printed description of the goods in the container, being a description which is necessary to enable the goods to be identified without the container being opened;

and in this paragraph “pre-packed” in relation to any goods means made up in advance ready for retail sale in or on a container.

(3) This Order shall not apply in relation to an indication of a price—

- (a) in a catalogue or work of reference of more than 30 printed pages of which copies are first made available for publication in the ordinary course of business before 1st October 1979; or

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(a) 1974 c. 24; section 4 was amended by section 16(1) of the Price Commission Act 1977 (c. 33).

- (b) in a periodical published before that date, being a periodical ordinarily published at regular intervals of more than 7 days; or
- (c) in a direct mail advertisement first issued before that date; or
- (d) in a cinematograph film or radio or television broadcast first exhibited or broadcast before that date.

(4) Articles 3, 4 and 5 of the Indication of Prices (Beds) Order 1978(a) are hereby revoked.

*Regulation of bargain offers*

2.—(1) Subject to paragraph (2) below, a person who indicates that—

- (a) any goods are or may be for sale by retail; or
- (b) any services (except services which he indicates are or may be provided only for the purposes of businesses carried on by other persons) are or may be provided,

shall not, on or in relation to those goods, indicate a price for their sale or, in relation to those services, indicate a charge for their provision, in such a manner that the indication includes a statement to which this article applies.

(2) Nothing in this article applies—

- (a) to a person who gives an indication of a price or charge only as—
  - (i) a compiler of a report or survey relating to prices or charges comprising that price or charge and other prices or charges, or
  - (ii) as a publisher or distributor of a publication or as an exhibitor or broadcaster of a cinematograph film or radio or television broadcast comprising the indication,not being a manufacturer or supplier of any goods to which, or a person who provides services to which, the indication relates; or
- (b) to a statement relating to a maximum permitted price or charge which is indicated pursuant to any enactment or Community obligation (whenever passed or created).

*Bargain offers relating to goods*

3.—(1) Subject to the following provisions of this Order, article 2 above applies, in relation to a price, to any statement (however framed and whether express or implied) that the price indicated is lower than—

- (a) a value ascribed to goods, not being the amount of such a price as is mentioned in sub-paragraph (b) below; or
- (b) the amount of another price for the sale of goods of the same description (whether that price is, or is not, specified or quantified or is, or is not, a price which has been charged, indicated or proposed by any person).

- (2) Sub-paragraph (b) of paragraph (1) above does not apply—
- (a) to a particular price which the person giving the indication—
- (i) proposes to charge or has charged in the ordinary course of business on the same or on other identified premises, or
  - (ii) has reasonable cause for believing has been charged in the ordinary course of business by another identified person in identified circumstances and has no reason for believing has ceased to be a price at which that person is prepared to do business in those circumstances,
- including in each case a price for the sale of goods of the same description in a specified different condition or quantity;
- (b) to a particular price applicable to the sale by the person giving the indication of goods of the same description—
- (i) upon specified different terms as to the time or manner of payment (including the provision of credit by any person either generally or to persons of a specified class or description),
  - (ii) in specified different circumstances,
  - (iii) in a specified different condition or quantity, or
  - (iv) to any person who is not within a class or description of persons for sales to whom the indicated price is expressed to apply; or
- (c) in a case where the indicated price applies to goods when supplied with other specified goods or with specified services, to a particular price for the sale of the goods without those other goods or services or with other specified goods or services.

*Bargain offers relating to services*

4.—(1) Subject to the following provisions of this Order, article 2 above applies, in relation to a charge, to any statement (however framed and whether express or implied) that the charge indicated is lower than—

- (a) a value ascribed to the provision of services, not being the amount of such a charge as is mentioned in sub-paragraph (b) below; or
- (b) the amount of another charge for the provision of services of the same description (whether that charge is, or is not, specified or quantified or is, or is not, a charge which has been made, indicated or proposed by any person).

- (2) Sub-paragraph (b) of paragraph (1) above does not apply—
- (a) to a particular charge which the person giving the indication—
- (i) proposes to make or has made in the ordinary course of business in circumstances with which a comparison may reasonably be made, or
  - (ii) has reasonable grounds for believing has been made in the ordinary course of business by another identified person in identified circumstances with which a comparison may reasonably be

made and has no reason for believing has ceased to be a charge at which that person is prepared to do business in those circumstances,

including in each case a charge for the provision of services of the same description in specified different circumstances or a specified different number of times;

- (b) to a particular charge applicable to the provision by the person giving the indication of services of the same description—
  - (i) upon specified different terms as to the time or manner of payment (including the provision of credit by any person either generally or to a specified class or description of persons),
  - (ii) in specified different circumstances,
  - (iii) a specified different number of times, or
  - (iv) to any person who is not within a class or description of persons for the provision of services to whom the indicated charge is expressed to apply; or
- (c) in a case where the indicated charge applies to services when supplied with other specified services or with specified goods, to a particular charge for the provision of the services without those other services or goods or with other specified services or goods.

*Recommended and similar prices and charges*

5.—(1) In relation to any goods or services other than goods or services of a description specified in the Schedule to this Order, article 3(1)(b) or article 4(1)(b) above does not apply to the amount of a price or charge which a person (not being one who indicates that identical goods are or may be for sale by him by retail or that identical services may be provided by him) has recommended or suggested as being a price at which any person might sell any such goods by retail or provide any such services, as the case may be.

(2) In relation to any goods which are exempt goods for the purposes of the Resale Prices Act 1976(a), article 3(1)(b) above does not apply to the amount of the price for the sale of those goods.

*Treatment of additional goods or services*

6. Where, in relation to an indication of price for the sale of any goods or of a charge for the provision of any services—

- (a) an indication is also given that other goods or services will or may be supplied with the first mentioned goods or services; and
- (b) no consideration in money is ascribed to the supply of those other goods or services,

the indication shall not, in relation to those other goods or services, include any statement of a description which would be prohibited by this Order if it were made in relation to the first mentioned goods or services.

*Comparison of prices and charges*

- 7.—(1) For the purposes of this Order—
- (a) goods shall be taken to be of the same description as other goods if those other goods are, by reason of their construction or composition or of a purpose for which they may be used, of a description with which the goods may reasonably be compared; and
  - (b) services shall be taken to be of the same description as other services if those other services are of a description with which the services may reasonably be compared.
- (2) For the purposes of this Order, a person shall at any time be taken—
- (a) to propose a particular price or charge only if at or before that time he gives notice by display, advertisement or other public notice of his intention to do business at that price or charge at or after a date specified therein or after a period so specified; and
  - (b) to have charged a price or made a charge only if before that time he has sold or agreed to sell goods at that price or has performed or agreed to perform services for that charge.
- (3) For the purposes of articles 3 and 4 above, in relation to an indication of a price or charge—
- (a) a person shall be taken to be an identified person, premises shall be taken to be identified premises, and circumstances shall be taken to be identified circumstances, only if the person is, or the premises or circumstances are, identified in the indication; and
  - (b) a condition, a number, a quantity, circumstances or terms shall be taken to be specified only if the condition, number or quantity is, or the circumstances or terms are, specified in the indication.

*Robert MacLennan,*

Parliamentary Under-Secretary of State for  
Prices and Consumer Protection.

27th March 1979.

*(Article 5)*

## THE SCHEDULE

Beds of any description (other than camp beds and beds intended primarily for outdoor use) intended for ultimate sale to private consumers, including mattresses and headboards.

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## EXPLANATORY NOTE

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

Except in the cases set out in the Order, this Order prohibits the indication of a price for the retail sale of goods or a charge for the provision of services to non-business users which includes an express or implied statement that the price or charge in question is lower than another price or charge for, or a value ascribed to, goods or services of the same description (article 2).

Articles 3 to 5 provide that the prohibition does not apply to comparisons between the indicated price or charge and—

- (a) prices or charges which have been charged in the ordinary course of business by the person giving the price indication or by another identified person;
- (b) prices or charges which the person giving the price indication proposes to charge from a specified future time;
- (c) prices or charges for goods or services of the same description in a different condition or quantity, or in different circumstances, or on different terms;
- (d) prices or charges for different combinations of goods or services;
- (e) where the indicated price or charge applies only to members of a specified group of persons, prices or charges to persons not within that group;
- (f) prices or charges which are recommended or suggested by any person who does not sell the goods in question by retail or provide the services in question, with the exception of those goods specified in the Schedule.

The Order revokes articles 3, 4 and 5 of the Indication of Prices (Beds) Order 1978 which contained similar provisions limited to beds.

The Order contains transitional provisions for pre-packed goods (article 1(2)) and for advertisements in certain catalogues, periodicals, films and radio and television broadcasts (article 1(3)).



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