

Subsidiary Legislation made under s. 15(b).

INDICATION OF PRICES AND INVOICING RULES 2012**(LN. 2012/198)**

Commencement **1.4.2013** *See LN. 2013/039*

Amending Relevant current Commencement
enactments provisions date

Transposing:

Directive 98/6/EC

EU Legislation/International Agreements involved:

ARRANGEMENT OF RULES

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Price Control

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In exercise of the powers conferred on it by section 15(b) of the Price Control Act and for the purpose of transposing into the law of Gibraltar Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of prices of products offered to consumers, the Government has made the following Rules:

Title and commencement.

1. These Rules may be cited as the Indication of Prices and Invoicing Rules 2012 and come into operation on the day appointed by the Minister by notice in the Gazette.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“advertisement” means any form of advertisement which is made in order to promote the sale of a product but does not include any advertisement by means of which the trader intends to encourage a consumer to enter into a distance contract, a catalogue, a price list, a container or a label;

“consumer” means a person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;

“distance contract” means any contract concerning products concluded by a trader and a consumer, by any means, without the simultaneous physical presence of the trader and consumer;

“itinerant trader” means any trader who as a pedestrian, or from a vessel, aircraft, vehicle, stall, barrow or other mobile sales unit offers products to consumers other than by means of pre-printed material;

“products sold in bulk” means products which are not pre-packaged and are measured in the presence of the consumer;

“relevant floor area” in relation to a shop means the internal floor area of the shop excluding any area not used for the retail sale of products or for the display of such products for retail sale;

“selling price” means the final price for a unit of the product, or a given quantity of the product;

“shop” includes a store, kiosk or franchise or concession within a shop;

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“small shop” means any shop which has a “relevant floor area” not exceeding 280 square metres;

“trader” means a person who sells or offers for sale products which fall within his commercial or professional activity;

“unit price” means the final price for one kilogramme, one litre, one metre, one square metre or one cubic metre of the product or, in respect of the products listed in Schedule 1, the final price for the corresponding unit of quantity set out in that Schedule, or where the products are sold by number, the final price for one individual item of the product.

Purpose and scope of these Rules.

3.(1) The purpose of these Rules is to require indication of the selling price and the price per unit of measurement of products offered by traders to consumers in order to—

- (a) improve consumer information; and
- (b) facilitate comparison of prices.

(2) These Rules shall not apply to—

- (a) products supplied in the course of the provision of a service;
- (b) sales by auction; or
- (c) sales of works of art and antiques.

Obligation to indicate selling price.

4.(1) Subject to sub-rule (2) and rules 9 and 10, where a trader indicates that any product is or may be for sale to a consumer, the trader shall indicate the selling price of that product in accordance with the provisions of these Rules.

(2) The requirement under sub-rule (1) shall not apply to—

- (a) products sold in bulk; or
- (b) an advertisement for a product.

Obligation to indicate unit price.

5.(1) Subject to sub-rules (2) and (3), where a trader indicates that any product is or may be for sale to a consumer, the trader shall indicate the unit price of that product in accordance with the provisions of these Rules.

(2) The requirement in sub-rule (1) only applies in respect of products sold in bulk or required by or under the Weights and Measures Act to be marked with an indication of quantity or made up in a quantity prescribed by or under that Act.

(3) The requirements in subregulation (1) shall not apply in relation to -

- (a) any product listed in Schedule 2;
- (b) bread made up in a prescribed quantity which is or may be for sale in a small shop, by an itinerant trader or from a vending machine;
- (c) any product the unit price of which is identical to the selling price; and
- (d) any product which is pre-packaged in a constant quantity and sold—
 - (i) in a small shop;
 - (ii) by an itinerant trader; or
 - (iii) from a vending machine.

(4) The requirement in sub-rule (1) shall apply to an advertisement for a product only where the selling price is indicated in the advertisement.

Manner of indicating selling price and unit price.

6.(1) The indication of selling price and unit price shall be in sterling.

(2) If a trader indicates his willingness to accept foreign currency in payment for a product, he shall, in addition to the required price indications in sterling—

- (a) give an indication of the selling price and any unit price required for the product in the foreign currency in question together with any commission to be charged; or
- (b) clearly identify the conversion rate on the basis of which the foreign currency price will be calculated together with any commission to be charged.

(3) In a situation under sub-rule (2), the trader shall also indicate that such selling price, unit price or conversion rate does not apply to transactions via a payment card to be applied to accounts denominated in currencies other than sterling, the conversion rate for which will be that applied by the relevant payment scheme which processes the transaction.

(4) An indication of selling price, unit price, commission or conversion rate must be unambiguous, easily identifiable and clearly legible.

(5) An indication of any charges for postage, packing or delivery of a product must be unambiguous, easily identifiable and clearly legible.

(6) Where in addition to a unit price, a price per quantity is indicated in relation to a supplementary indication of quantity expressed in imperial units of measurement, the unit price shall predominate and the price per imperial quantity must be expressed in characters no larger than the unit price.

Pre-packaged food.

7.(1) In the case of a pre-packaged solid food product presented in a liquid medium, the unit price must refer to the net drained weight of the product.

(2) Where a unit price is also given with reference to the net weight of the product, it must be clearly indicated which unit price relates to net drained weight and which to net weight.

Special provisions relating to general reductions.

8. Where a trader proposes to sell products to which these Rules apply at less than the selling price or the unit price previously applicable, he may

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comply with the obligations specified in rule 4(1) (to indicate the selling price) and 5(1) (to indicate the unit price) by indicating in a general notice or any other visible means that the products are or may be for sale at a reduction where the details of the reduction must be—

- (a) prominently displayed;
- (b) unambiguous;
- (c) easily identifiable; and
- (d) clearly legible.

Special provisions relating to precious metals.

9. In the case of products the selling price of which varies from day to day according to the price of the precious metals contained in them the obligation to indicate the selling price referred to in rule 4(1) may be complied with by indicating in a manner which is unambiguous, easily identifiable and clearly legible—

- (a) the weight, type and standard of fineness of each precious metal contained in the product; and
- (b) any element of the selling price which is not referable to weight,

accompanied by a clearly legible and prominent notice stating the price per unit of weight for the type and standard of fineness of each precious metal contained in the product.

Decimal places and rounding of unit prices.

10.(1) Where the unit price of a product falls below £1 it shall be expressed to the nearest 0.1p and where the figure denoting one hundredths of one penny in the unit price is 5 or higher, it shall be rounded up, and where it is 4 or lower it shall be rounded down.

(2) Where the unit price of a product falls above £1 it may be expressed to the nearest—

- (a) 1p, in which case where the figure denoting tenths of one penny in the unit price is 5 or higher it must be rounded up and where it is 4 or lower it must be rounded down; or
- (b) 0.1p in which case where the figure denoting hundredths of one penny in the unit price is 5 or higher it must be rounded up and where it is 4 or lower it must be rounded down.

Units of quantity.

11. For the purposes of Schedule 1, a trader may indicate any other units of quantity set out in the second column of the table for the corresponding product.

Enforcement.

12.(1) The provisions of these Rules shall be enforced by the Consumer Officer or such other person as the Government may, from time to time, appoint by notice in the Gazette.

(2) The Consumer Officer shall have the meaning assigned to it by section 2 of the Consumer Protection (Unfair Trading) Act 2008.

Particulars in invoices of price-controlled supplies sold for resale.

13. The following particulars shall be contained in every invoice relating to price-controlled supplies which is required under the provisions of section 6 (2) of the Act to be furnished by the person who sells such supplies to another person for the purpose of resale—

- (a) the name of, and the address of the principal place of business of, the seller;
- (b) the name of the buyer and, if another person, of the person to whom the supplies are being or will be sent, and the address to which the supplies are being or will be sent;
- (c) a sufficient description of the supplies to which the invoice relates, and in particular the numbers or quantities thereof and also the sizes in cases in which size is a relevant factor in relation to the price charged;
- (d) the price paid or payable in respect of each item in the invoice;
- (e) any discount (whether conditional or not) allowed or to be allowed in respect of any item in the invoice;
- (f) any delivery charges payable by the buyer in respect of any item in the invoice ; and
- (g) the date of the sale of each item in the invoice and the date on which the invoice is furnished.

Penalties.

14. A person who fails to comply with the requirements of rule 4(1), 5(1), 6, 7 or 13, commits an offence and is liable to a fine not exceeding £5,000.00.

Revocation.

15. The Price Control (Invoices) Rules are revoked.

**RELEVANT UNIT OF QUANTITY FOR SPECIFIC PRODUCTS
FOR THE PURPOSE OF THE DEFINITION “UNIT PRICE”**

Product	Units
Herbs	10 g, 100g, 100ml, 1kg or 1 litre
Spices	10 g, 100g, 100ml, 1kg or 1 litre
Flavouring essences	10 g, 100g, 100ml, 1kg or 1 litre
Food colourings	10 g, 100g, 100ml, 1kg or 1 litre
Seeds (other than pea and bean seeds)	10 g, 100g, 100ml, 1kg or 1 litre
Cosmetic make-up products	10 g, 100g, 100ml, 1kg or 1 litre (except where sold by number)
Rice	100g, 1kg or 1 litre
Pickles	100g, 100ml, 1kg, or 1 litre
Sauces, edible oils	100g, 100ml, 1kg or 1 litre
Fresh processed salad	100g, 1kg
Ready to eat desserts	100g, 100ml, 1kg or 1 litre
Cream and non-dairy alternatives to cream	100g, 100ml, 1kg or 1 litre
Bread	100g, 100ml, 1kg or 1 litre
Biscuits and shortbread	100g, 1kg (except where sold by number)
Pies, pasties, sausage rolls, puddings and flans	100g, 1kg (except where sold by number)
Ice cream and frozen desserts	100g, 100ml, 1kg or 1 litre
Preserves including honey	100g, 100ml, 1kg or 1 litre
Soups	100g, 100ml, 1kg or 1 litre
Fruit juices, soft drinks	100g, 100ml, 1kg or 1 litre
Coffee	100g, 100ml, 1kg or 1 litre
Tea and other beverages prepared with liquid	100g, 100ml, 1kg or 1 litre
Chocolate and sugar confectionary	100g, 100ml, 1kg or 1 litre
Potato crisps and similar products commonly known as snack foods	100g, 1kg
Breakfast cereal products	100g, 1kg
Dry sauce mixes	100g, 1kg
Dips and spreads excluding edible fats	100g
Cooked or ready-to-eat meat including game and poultry	100g, 1kg

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Cooked or ready-to-eat fish, seafood and crustacea	100g, 100ml, 1kg or 1 litre
Waters, including spa waters and aerated waters	100g, 100ml, 1kg or 1 litre
Cosmetic products other than make-up products	100g, 100ml, 1kg or 1 litre
Lubricating oils other than oils for internal combustion engines	100g, 100ml, 1kg or 1 litre
Hand rolling and pipe tobacco	100g, 100ml, 1kg or 1 litre
Wines, sparkling wine, liqueur wine, fortified wine	100g, 100ml, 1kg or 1 litre
Coal, where sold by the kilogram	50kg
Ballast, where sold by the kilogram	1000kg

SCHEDULE 2

Rule 5 (2)(a)

**PRODUCTS IN RESPECT OF WHICH A TRADER IS EXEMPT
FROM THE REQUIREMENT TO INDICATE THE UNIT PRICE**

1. Any product which is offered by traders to consumers by means of an advertisement which is—
 - (a) purely aural;
 - (b) broadcast on television; or
 - (c) shown at a cinema.
2. Any product the price of which has been reduced from the usual price at which it is sold, on account of—
 - (a) its damaged condition; or
 - (b) the danger of its deterioration.
3. Any product which comprises an assortment of different items sold in a single package.