

Subsidiary Legislation made under s.11.

CIVIL CONTINGENCIES EMERGENCY (CORONAVIRUS) (PRICE CONTROL NO.9) REGULATIONS 2020

LN.2020/390

Commencement

7.11.2020

ARRANGEMENT OF REGULATIONS.

Regulation

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Civil Contingencies Emergency (Coronavirus) (Price Control No.9) Regulations 2020

In exercise of the powers conferred on her by section 11 of the Civil Contingencies Act 2007, and all other enabling powers, the Minister with responsibility for Civil Contingencies, acting with the consent of the Chief Minister, has made these Regulations-

Title.

1. These Regulations may be cited as the Civil Contingencies Emergency (Coronavirus) (Price Control No.9) Regulations 2020.

Commencement and expiry.

2. These Regulations come into operation on 7th November 2020 and cease to have effect on 5th December 2020.

Statement in accordance with section 11(2) of the Act.

3. The Minister declares that –

- (a) there is an outbreak of Coronavirus which on the 11th March 2020 the World Health Organisation (WHO) declared to be a pandemic; at the time of the publication of the Civil Contingencies Emergency (Coronavirus) (Price Control No.8) Regulations 2020 there were approximately 36,237,403 confirmed cases globally and around 1,054,868 people had died; at the time of the publication of these Regulations there are approximately 47,930,397 confirmed cases globally and around 1,221,781 people have died; Coronavirus has, to date, reached 235 countries, areas or territories, and it is therefore necessary to take measures to prevent, mitigate and control the spread of Coronavirus in Gibraltar;
- (b) she is satisfied, in accordance with section 11 of the Act, that there exists a situation which threatens serious damage to human welfare in Gibraltar and which involves, causes or may cause loss of human life and human illness or injury;
- (c) the conditions in section 12 of the Act are met;
- (d) these Regulations contain only provisions which are appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made; and
- (e) the effect of these Regulations is in due proportion to that aspect or effect of the said emergency.

Interpretation.

4. In these Regulations unless the context otherwise requires-

“High Demand Supplies” means any of the following goods or articles-

- (a) goods or articles used for personal sanitation purposes containing, labelled or described as featuring anti-bacterial or alcohol-based properties such as hand sanitizer gel, soap gel and soap bars;
- (b) face-masks;
- (c) gloves;
- (d) paracetamol, vitamins, multi-vitamins, inhalers;
- (e) toilet paper, kitchen paper, tissues and any variation thereof;
- (f) cleaning disinfectants;

“landed cost” means the price at which the relevant High Demand Supplies is invoiced to the importer together with the cost of insurance and freight, (if not included in the invoice price) and the landing charges payable in Gibraltar;

“reasonable cause” means the inability to source the relevant High Demand Supplies for importation into Gibraltar at the same price for which the same supplies were obtained before 15 March 2020.

Fixing of Maximum Prices.

5.(1) Subject to regulation 6, unless a person can show reasonable cause, the maximum price at which High Demand Supplies may be sold are an amount that does not exceed 10% over the price for which the same High Demand Supplies were offered for sale before 15 March 2020.

(2) Where a person can show reasonable cause, such person may sell High Demand Supplies at an amount that does not exceed 20% over the value of the landed cost.

(3) A person that has not prior to 15 March 2020 sold High Demand Supplies may only do so at an amount that does not exceed 20% over the value of the landed cost.

(4) The price control limits set out in this regulation apply to both wholesale and retail prices.

Determination by the OFT.

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6.(1) A person to whom regulation 5 applies and who is not satisfied with the level at which the price control is set therein may apply to the OFT for a determination.

(2) On receipt of an application under subregulation (1) the OFT must, having regard to all the circumstances of the case and in particular the need to protect consumers from excessive prices, issue a determination that either confirms the percentages that are set out in regulation 5 or substitutes the percentage for such percentage as the OFT considers to be reasonable in the particular circumstances of that case.

(3) The OFT may request such information from the applicant as it thinks necessary in order to make a determination under this regulation.

(4) The determination in subregulation (2) must be in writing and applies only to the person to whom it is addressed and only in relation to goods or class of goods stated therein.

(5) A person to whom a determination is addressed is prohibited from selling High Demand Supplies at a price that exceeds that provided for in the determination.

(6) In this regulation “OFT” means the Office of Fair Trading established under the Fair Trading Act 2015.

Offence.

7.(1) A person who sells High Demand Supplies in breach of the provisions in regulation 5 or 6 commits an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

(2) If an offence under this regulation committed by a body corporate is proved-

(a) to have been committed with the consent or connivance of; or

(b) to be attributable to any neglect on the part of,

an officer, the officer as well as the corporate body commits an offence and is liable to be proceeded against and punished accordingly.

(3) In subregulation (2), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity and if the affairs of a corporate body are managed by its members, “director” means a member of that body.

Enforcement.

8.(1) Consumer Protection Enforcers, within the meaning given in section 34 of the Fair Trading Act 2015, are responsible for the enforcement of these Regulations.

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(2) Consumer Protection Enforcers shall have all the powers conferred upon them by the Fair Trading Act 2015 for the purposes of subregulation (1).