



Republic of Namibia
Annotated Statutes

Price Control Act 25 of 1964 (RSA)

(RSA GG 750)

brought into force in South Africa and South West Africa
on 2 October 1964 by RSA Proc. R.255/1964 (RSA GG 911)
(section 21 of original Act)

APPLICATION OF ACT TO SOUTH WEST AFRICA: Section 21 of the original Act stated: “This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923 of that territory.” **It was substituted by Act 80 of 1967, with the effect of making amendments to the Act also applicable to South West Africa; section 21 as substituted states** “This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in the portion of the said territory known as the “Rehoboth Gebiet” and defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.”

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (Commerce) Transfer Proclamation, AG 28 of 1978, dated 28 April 1978. There were two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Price Control Amendment Act 16 of 1984* (RSA GG 9092) and the *Coal Resources Act 60 of 1985* (RSA GG 9773) – neither of which was applicable to South West Africa because neither was made expressly so applicable.

as amended by

Price Control Amendment Act 80 of 1967 (RSA) (RSA GG 1764)

came into force on date of publication: 14 June 1967

Price Control Amendment Act 39 of 1976 (RSA) (RSA GG 5066)

came into force on date of publication: 7 April 1976

ACT

To provide for the control of prices and other incidental matters.

*(English text signed by the State President)
(Assented to 9th March, 1964)*

ARRANGEMENT OF SECTIONS

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BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1. In this Act and in any notice issued thereunder, unless the context otherwise indicates -

[introductory phrase of section 1 substituted by Act 80 of 1967]

“advertise” means to distribute to members of the public or bring to their notice in any other manner any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference in order to -

- (a) promote the sale of goods or encourage the use thereof or draw attention to the nature, properties, advantages or uses of goods or to the manner in, conditions on or prices at which goods may be purchased or otherwise acquired; or
- (b) promote or encourage the use of any service or draw attention to the nature, properties, advantages or uses of any service or the manner in, conditions on or prices at which any service is rendered;

[definition of “advertise” inserted by Act 39 of 1976]

“controller” means the Price Controller appointed under section *two*;

“*Gazette*” in relation to any notice under this Act the application whereof is limited to the territory of South-West Africa or any portion thereof, means the *Official Gazette* of the said territory;

“goods” includes used goods;

“Minister” means the Minister of Economic Affairs;

“sell” includes agree to sell, or mark with a selling price, or offer or attempt to sell, or keep, expose, display or advertise for sale, or deliver in pursuance of a sale, or deliver or dispose of for any consideration, or sell by auction or by way of an agreement as defined in the Hire Purchase Act, 1942 (Act No. 36 of 1942), the date of any such agreement being deemed to be the date of sale, and “sale” shall have a corresponding meaning;

[The definition of “sell” is substituted by Act 39 of 1976. The Hire Purchase Act 36 of 1942 has been replaced by the Credit Agreements Act 75 of 1980.]

“service” means any service rendered in the course of any commercial transaction and includes the supply of refreshments or meals for consumption on the premises at which such refreshments or meals are supplied.

Appointment of Price Controller

2. The Minister may, subject to the laws governing the public service, appoint a Price Controller who shall, subject to the control of the Minister, perform such functions and exercise such powers as may be assigned to or conferred upon him by this Act.

Designation of deputy price controllers, price control supervisors and price control inspectors

3. The controller may designate any officers in the public service -
- (a) as deputy price controllers, who shall, subject to his control, perform such functions and exercise such powers as he may delegate to them;
 - (b) as price control supervisors or inspectors, who shall, subject to the control of the controller, perform such functions and exercise such powers as may be assigned to or conferred upon them by this Act.

Controller may fix maximum prices or charges

4. (1) The controller may from time to time by notice in the *Gazette* or, with the authority of the Minister, in the case of any particular person, by notice in writing -

- (a) fix the maximum price at which any goods may be sold by any person to any other person;
- (b) fix the maximum price at which any person may purchase any goods from any other person;
- (c) fix the maximum charge that may be made by any person for any specified service;

- (d) prohibit any person from making any charge for any specified service.

[subsection (1) substituted by Act 80 of 1967]

- (2) Any price or charge so fixed -

- (a) may be a specified price or charge fixed irrespective of the cost of the goods or service concerned or a price or charge to be determined on such basis as the controller may in each case specify;
- (b) may vary in respect of different transactions, areas or persons or classes or categories of persons.

(3) Any price or charge so fixed may vary in respect of different classes, kinds, quantities or qualities of goods or services.

(4) Unless otherwise specified by the controller, whenever under this section the maximum price in respect of any goods has been fixed, the maximum price in respect of any quantity of such goods for which the maximum price has not been specifically fixed, shall -

- (i) if the quantity exceeds a quantity for which the maximum price has been fixed, be proportionate to the maximum price fixed for the largest quantity that is less than the first-mentioned quantity;
- (ii) if the quantity is less than the smallest quantity for which the maximum price has been fixed, be proportionate to the maximum price fixed for such smallest quantity.

[The paragraphs here are numbered with Roman numerals instead of with letters, unlike the paragraphs in the other subsections in this section.]

(5) Unless otherwise specified by the controller, a fraction of one-half cent in any price calculated in terms of sub-section (4) may be charged as one-half cent.

Deposits or charges in respect of containers of goods sold

5. (1) The controller may from time to time by notice in the *Gazette* or, with the authority of the Minister, in the case of any particular person, by notice in writing -

[introductory phrase of subsection (1) substituted by Act 80 of 1967]

- (a) prescribe the maximum amount of any deposit which may be required in respect of the return of the container of any goods sold;
- (b) prohibit any person selling any goods in a container from requiring any deposit in respect of the return of such container or from making any charge for such container;
- (c) prescribe the amount of any refund to be made on return of the container in which any goods have been sold irrespective of the amount of any deposit made, the conditions subject to which such refund shall become payable and the time within which such refund may be claimed;
- (d) prescribe the amount which any person selling any goods in a container shall pay to the purchaser for a similar container.

(2) In exercising any power under sub-section (1) the controller may differentiate between classes or categories of persons or classes or kinds of containers.

Sale of goods by auction

6. (1) The controller may from time to time by notice in the *Gazette* prescribe the requirements to be complied with by any seller or auctioneer at a sale of goods by auction, in order to ensure compliance with the provisions of this Act or any notice issued thereunder.

(2) Such requirements may vary in respect of different classes or categories of sellers or auctioneers.

Display or marking of prices and marking of goods

7. The controller may from time to time by notice in the *Gazette* or, in the case of any particular person, by notice in writing -

- (a) whenever any maximum price for any goods or any maximum charge for any service has been fixed under this Act, direct that any person dealing in such goods or rendering such service shall display in such manner as the controller may prescribe, such maximum price or charge;
- (b) require any dealer or any dealer of a specified class to mark in such manner as the controller may prescribe any goods or any specified goods with his selling price for such goods;
- (c) require any manufacturer or any particular manufacturer of any specified goods or goods of a specified class or any dealer or any particular dealer in such goods to mark such goods in such manner as the controller may prescribe -
 - (i) with the maximum price at which such goods may be sold to any person or to any person of a specified class by any dealer or any particular dealer or any dealer of a specified class;
 - (ii) with identification marks enabling such goods or any materials from which such goods were made or the period during which such goods were manufactured to be identified;
- (d) prohibit any person or any person of a specified class who sells any goods in respect of which any notice under paragraph (c) applies or applied -
 - (i) from altering, defacing, mutilating, destroying or removing any mark placed or purporting to have been placed on such goods in terms of such notice;
 - (ii) from permitting any such mark to be altered, defaced, mutilated, destroyed or removed.

Issue and retention of invoices

8. The controller may by notice in the *Gazette* or, with the authority of the Minister, in the case of any particular person, by notice in writing -

[introductory phrase of subsection (1) substituted by Act 80 of 1967]

- (a) require any person selling any goods or rendering any service to issue, at such time or within such period as may be prescribed by the controller, to the purchaser of such goods or to the person to whom such service is rendered an invoice containing such particulars as may be so prescribed;
- (b) require any person issuing such an invoice to retain a copy thereof for such period as the controller may prescribe;
- (c) require any person to whom such an invoice has been issued to retain it for such period as the controller may prescribe.

Certain conditional sales or the rendering of services on certain conditions may be prohibited

9. (1) The controller may from time to time by notice in the *Gazette* or, with the authority of the Minister, in the case of any particular person, by notice in writing prohibit the sale of any goods or the rendering of any service subject to conditions specified in the notice, or the refusal to sell any goods or render any service except subject to conditions so specified or impose in respect of the sale of any goods or the rendering of any service such conditions as he may think fit, whether the maximum price for the sale of such goods or the maximum charge for the rendering of such services has been fixed under this Act or not.

[subsection (1) substituted by Act 39 of 1976]

(2) Any such prohibition may relate to any goods or services or to any class of goods or services and may vary in respect of different goods or services or classes of goods or services or classes or categories of persons.

(3) Without prejudice to the generality of the powers conferred on the controller by subsection (1), he may under that subsection by notice in the *Gazette* or, with the authority of the Minister, in the case of any particular person, by notice in writing, prohibit the sale of goods subject to conditions in terms of which, if the purchase price or other consideration is payable by instalments, less than the portion of the purchase price or other consideration specified in the notice shall or may be paid in a cash amount of money or in goods at the time the agreement is entered into and the full purchase price or other consideration shall or may be paid over a longer period than that specified in the notice.

(4) For the purposes of the application of a notice such as is referred to in subsection (3) -

- (a) substantial compliance with any condition specified in such notice shall be regarded as compliance with such condition; and
- (b) payment by means of a negotiable instrument (other than a promissory note) payable on demand to the seller or his order or to bearer shall be regarded as payment to the extent to which the amount due under such negotiable instrument is, within twenty-one days of delivery thereof to the seller, paid to the seller or his order or to the credit of his account, or that of his order, with a banker.

(5) For the purposes of this section “sale” shall, in addition to the meaning it has in terms of the definition thereof in section 1, have the meaning assigned to it in any notice issued under subsection (1) of this section, and any such meaning may include disposal of any goods by way of a lease-lend, lease or any other agreement as defined in such notice, the date of any such agreement being deemed to be the date of sale; and “sell” shall have a corresponding meaning.

(6) No agreement shall be deemed to be inoperative by reason only of the fact that it is or was entered into in contravention of a prohibition contained in a notice issued under subsection (1), and no negotiable instrument shall be deemed to be inoperative by reason only of the fact that it was given or drawn in respect of any liability under any agreement which has been prohibited under subsection (1).

[Section 9 is substituted by Act 80 of 1967 with effect from 2 October 1967 (see section 5 of Act 80 of 1967). The substitution uses "subsection" although "sub-section" is used elsewhere in the Act.]

Sale or disposal of certain goods may be prohibited temporarily

10. (1) The controller or any price control supervisor may by notice in writing and for such period as he may deem fit prohibit any person from selling or disposing of any goods not subject to a maximum selling price fixed under this Act.

(2) The controller or price control supervisor may by like notice extend any such period or withdraw any such prohibition.

Keeping and preservation of records by certain purchasers of goods and person rendering services

11. The controller may from time to time by notice in the *Gazette* or, with the authority of the Minister, in the case of a particular person, by notice in writing -

[introductory phrase of section 11 substituted by Act 80 of 1967]

- (a) require any person purchasing any goods for resale or for use in the processing, manufacture or production of any class of goods for sale, to keep in one of the official languages of the Republic or, in the case of the territory of South-West Africa, in one of such languages or the German language -
- (i) such records as may be prescribed in the said notice, relating to the purchase price of such goods or to the cost of processing, manufacture or production of such class of goods or to the selling price of such goods or class of goods; or
- (ii) where no such records have been so prescribed, such records as will permit of the ready and accurate ascertainment of the purchase price of such goods or the cost of processing, manufacture or production of such class of goods determined in such manner as may in respect of such class of goods be prescribed in the said notice or the selling price of such goods or class of goods;

[The term "official languages" refers to the period before independence when English and Afrikaans were both official languages of "South West Africa". The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]

- (b) require any person rendering any service at a remuneration so to keep such records as may be prescribed in the said notice, relating to the costs incurred in rendering such service or, where no such records have been so prescribed, such records as will permit of the ready and accurate ascertainment of such costs, determined in such manner as may in respect of such service be prescribed in the said notice;

- (c) require any person keeping any records in terms of this section to preserve such records for such period as may be specified in the said notice.

Information to be furnished to controller by certain persons

12. (1) The controller may order any person who renders or has rendered any service or who supplies, produces, manufactures, sells, handles or deals in, or has supplied, produced, manufactured, sold, handled or dealt in any goods to furnish the controller from time to time -

- (a) with any information available to such person in respect of such service or such goods, which he or his servant or agent has or had in his possession or custody, or over which he has or had any control, or which he is capable of producing or manufacturing;
- (b) with any balance sheet or business account in the possession or custody or under the control of such person relating to such service or such goods.

(2) The controller may order any person who is or was the servant or agent of any person contemplated in sub-section (1), to furnish the controller with any information relating to any service rendered or any goods sold, handled or dealt in by such servant or agent in the course of his employment by the lastmentioned person or in the performance of any mandate from such person.

(3) No person may refuse to comply with any order under this section on the ground that in so complying he may incriminate himself.

Powers of price control supervisors and inspectors

13. (1) Any price control supervisor or inspector may for the purpose of enquiring whether the provisions of this Act or any notice issued thereunder has been complied with or for the purpose of gathering such information as the controller may desire -

[introductory phrase of subsection (1) substituted by Act 39 of 1976]

- (a) order any person who renders or has rendered any service, or who supplies, produces, manufactures, sells, handles or deals in, or has supplied, produced, manufactured, sold, handled or dealt in any goods, or any servant or agent of such person -
- (i) to produce to such supervisor or inspector any goods, book, record, list, ticket or document in possession or custody or under the control of such person, servant or agent;
- (ii) to furnish such supervisor or inspector at such place and in such manner as he may specify, with such information relating to such goods, service, book, record, list, ticket or document, as such supervisor or inspector may specify;
- (b) examine or make extracts from or copies of any such book, record, list, ticket or document;
- (c) seize and take possession of any such goods, book, record, list, ticket or document.

(2) Any price control supervisor or inspector shall furnish the owner of anything seized and taken possession of under sub-section (1) with a receipt.

(3) No person may refuse to comply with any order under this section on the ground that in so complying he may incriminate himself.

(4) The provisions of this section shall not entitle a supervisor or inspector to demand from any person the production of a balance sheet or a manufacturing, trading or profit and loss account unless specially authorized thereto by the controller.

Controller may order person selling goods or charging for services in contravention of this Act to make certain payments

14. (1) If a person has received in respect of any goods which he has sold a price in excess of the maximum price permissible under this Act for such goods or if a person has received in respect of any service which he has rendered a charge in excess of the maximum charge permissible under this Act for such service, the controller may, irrespective of any action that may have been taken or that may be taken against such person, order him to pay to the purchaser of such goods or to the person to whom such service was rendered, or if the identity or whereabouts of the purchaser or the person to whom such service was rendered, cannot readily be ascertained, to pay to the Secretary for Inland Revenue for the benefit of the Consolidated Revenue Fund or, in the case of the territory of South-West Africa, to the Secretary for South-West Africa for the benefit of the Territory Revenue Fund, a sum not exceeding twice the amount by which the first-mentioned price or charge exceeds the latter.

(2) If it appears that in determining the price which he charged any person for any goods the seller has complied with the provisions of this Act but that the price charged by any previous seller of those goods was in excess of the maximum price permissible under this Act, the controller may order such previous seller to pay to the ultimate purchaser of the said goods, or if his identity or whereabouts cannot readily be ascertained, to pay to the Secretary for Inland Revenue for the benefit of the Consolidated Revenue Fund or, in the case of the territory of South-West Africa, to the Secretary for South-West Africa for the benefit of the Territory Revenue Fund, a sum not exceeding twice the amount by which the price paid by such purchaser exceeded the maximum price which he would have been required to pay for the said goods if the provisions of this Act had been complied with by each of the persons who dealt in the said goods up to the time of their acquisition by such purchaser.

(3) If any person has been convicted on a charge of selling any goods contrary to a prohibition imposed under section *nine* in that he required the purchaser of any particular goods to comply with a condition that the purchaser purchase from him or from any other person other goods in addition to such particular goods, the controller may, upon application by such purchaser, order the person who sold such other goods to pay to the purchaser the price he paid for such other goods.

(4) When the controller has made an order under this section he shall forward a certified copy thereof to the clerk of a magistrate's court and thereupon such order shall have the effect of a civil judgment of that magistrate's court.

[Section 26 and section 39(11) of the Namibia Revenue Agency Act 12 of 2017 both provide that a reference in any law to the Commissioner of Inland Revenue must now be construed as a reference to the Commissioner of the Revenue Agency. This may affect the interpretation of the "Secretary for Inland Revenue".]

Controller may grant exemptions

15. The controller may from time to time by notice in the *Gazette* or, with the authority of the Minister, in the case of a particular person, by notice in writing –

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- (a) subject to such conditions as he may impose, grant any person or category of persons exemption from any provision of this Act, or any notice or order issued thereunder, to such extent as he may specify; and
- (b) without assigning any reason and without giving any hearing to the person or persons concerned withdraw or modify to such extent and subject to such conditions as the controller may think fit, any such exemption.

[section 15 substituted by Act 80 of 1967 and by Act 39 of 1976]

Evidence

16. (1) Any certificate purporting to have been issued by the controller, a deputy price controller or a price control supervisor and setting forth -

- (a) the maximum price at which on a particular date or during a particular period it would have been permissible for a particular person to sell specified goods; or
- (b) the maximum charge which on a particular date or during a particular period it would have been permissible for a particular person to make for any specified service,

shall on its mere production by any person in any criminal proceedings under this Act be *prima facie* proof of such price or charge.

(2) Any statement or entry contained in any book or document kept by any person or his servant or agent shall be admissible against such person in any criminal proceedings under this Act as an admission of the facts set forth in such statement or entry unless it is proved that the statement or entry was not made by such person or his servant or agent.

- (3) If it is alleged in the charge in any criminal proceedings under this Act -
 - (a) that any person is a person of a specified class or category of persons;
 - (b) that any goods alleged to have been sold or purchased are goods of a particular class or kind;
 - (c) that any goods are goods to which any provision of a notice under this Act applies;
 - (d) that any person has altered, defaced, mutilated, destroyed or removed or permitted to be altered, defaced, mutilated, destroyed or removed any mark placed or purporting to have been placed on any goods in terms of a notice under this Act,

such allegation shall be sufficient proof of the facts alleged until the contrary is proved.

Principal responsible for certain acts of manager, servant or agent

17. Whenever the manager, servant or agent of any person does or omits to do anything which it would be an offence under this Act for such person to do or omit to do, such person shall be deemed himself to have done or omitted to do such thing and be liable on conviction to the penalties therefor unless he proves to the satisfaction of the court -

- (a) that in doing or omitting to do such thing such manager, servant or agent was acting without his connivance or permission;

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- (b) that all reasonable steps were taken by him to prevent any act or omission of the kind in question; and
- (c) that it was not under any condition or in any circumstances within the scope of the authority or the course of the employment of the manager, servant or agent to do or omit to do acts, whether lawful or unlawful, of the character of that of the act or omission charged:

Provided that the fact that such person issued instructions forbidding any act or omission of the kind in question, shall not of itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

Offences

- 18.** Any person who -
- (a) sells any goods to any other person at a price in excess of the maximum price at which he may under this Act sell such goods to such other person;
 - (b) purchases or offers to purchase any goods from any other person at a price in excess of the maximum price at which he may under this Act purchase such goods from such other person;
 - (c) makes a charge for any service in excess of the maximum charge which he may under this Act make for such service;
 - (d) makes a charge for any service if he is prohibited under this Act from making any charge for such service;
 - (e) contravenes or fails to comply with any provision of a notice issued under section *five, six, seven, eight, nine, ten* or *eleven*;
 - (f) in pursuance of a notice issued under section *eight* issues an invoice which is incorrect in any material respect;
 - (g) fails to comply within a reasonable time with an order issued under section *twelve*, or, in pursuance of such order, furnishes any information or document which is incorrect;
 - (h) fails to comply with an order issued under section *thirteen*, within such time as the person issuing the order may specify, or, in pursuance of such order, furnishes any information which is incorrect;
 - (i) hinders, obstructs or delays any person in the performance of his functions or in the exercise of his powers under this Act;
 - (j) falsely represents himself to be a price control supervisor or inspector,

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[section 18 amended by Act 39 of 1976]

Jurisdiction of magistrate's court

19. Notwithstanding anything to the contrary in any other law contained a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Application of notices under this Act

20. The controller may limit the application of any notice issued by him under this Act to any area or areas or person or persons or classes or categories of persons specified in the notice.

Application of Act to South-West Africa

21. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in the portion of the said territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.

[section 21 substituted by Act 80 of 1967]

Amendment of Schedule to Act 58 of 1956, as amended by section 2 of Act 39 of 1959, section 2 of Act 66 of 1962 and section 7 of Act 45 of 1963

22. (1) The Schedule to the War Measures Continuation Act, 1956, is hereby amended by the deletion of item 5.

(2) Any maximum price or charge fixed by virtue of the provisions of Proclamation No. 185 of 1946 (War Measure No. 49 of 1946), shall be deemed to have been fixed under the corresponding provisions of this Act.

Short title and date of commencement

23. This Act shall be called the Price Control Act, 1964, and shall come into operation upon a date to be fixed by the State President by proclamation in the *Gazette*.