

STATES OF JERSEY



DRAFT PRICE INDICATORS (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 28th January 2008
by the Minister for Economic Development**

STATES GREFFE



Jersey

DRAFT PRICE INDICATORS (JERSEY) REGULATIONS 200-

REPORT

Introduction

The draft Price Indicators (Jersey) Regulations 200- have been proposed as a result of the decision by the States on 7th November 2007 when the draft Price and Charge Indicators (Jersey) Law 2008 was passed by a large majority. The effect of that decision was to introduce general retail price marking legislation in Jersey for the first time. However, more significantly, the decision was taken that when the Goods and Services Tax (GST) is introduced, the prices of goods offered to consumers should, as a general rule, be displayed inclusive of GST so that what is advertised is what is paid at the till. This ensures that Jersey retailers follow fair trading practices which are prevalent throughout Europe and much of the rest of the world.

Background

The question of price displays subsequent to GST has indeed been well debated through various forms of local media and opinions varied, not just from consumers but also traders. In fact, prior to the publication of the Economic Affairs Scrutiny Panel report on the draft Price and Charge Indicators Law, there had been an intention to allow a period of unregulated price marking for retail goods. However, one of the major factors emerging from the Scrutiny investigation was that the main concern of retailers was not whether GST inclusive or exclusive was applied but that the States made a decision one way or the other as soon as possible.

Consequently, the Economic Development Minister in consultation with the Treasury Minister decided to re-lodge the draft Price and Charge Indicators (Jersey) Law to enable the States to fully debate the issue and make a decision. That decision was that GST should be included in retail price indications.

The Regulations

The Law passed in November 2007 was in essence an enabling Law and the significant provision is found in Article 2. This enables the States to make Regulations requiring the price of goods, or the charge for services, to be indicated when they are offered for sale. It is important to note that, in common with U.K. legislation, these draft Regulations apply only to goods offered to consumers and not services. This is because the vast majority of service providers – plumbers, electricians, builders and many other service providers by their very nature do not have set prices as nearly every job is unique. The price is made up of variable labour charges and materials used in completing the job. In effect, as in the U.K., GST may be calculated and added as a separate item on a service invoice.

One very important provision in Article 2 of the Price and Charge Indicators Law is found in Article 2 (4). This enables the States to make exceptions to the general rule of GST inclusive price indicators and it has been found necessary to allow for some exceptions. Following the decision of the States in November 2007, a number of meetings were held with the Chamber of Commerce as well as other larger retailers to discuss the ramifications of not providing for some exceptions in the Regulations. It is well known that the vast majority of retail goods supplied in Jersey are imported from the U.K. and this includes pre-packed food. A relatively small percentage of this food is packed and priced for the U.K. market. It is accepted that it would be detrimental to the interests of local consumers to force some traders to either re-pack these food products, source products elsewhere at greater cost or possibly discontinue certain lines.

Therefore an exception for pre-priced food has been included in the draft Regulations. Other major problems for some retailers were pre-priced books, magazines and newspapers. These have also been provided for as exceptions to the GST inclusive rule. To ensure that consumers are made fully aware of these exceptions, it is a requirement that those retailers, who offer such goods, provide clear signs alerting customers to the fact that either

a fixed amount or a percentage will be added to determine the final selling price.

It is of course possible that some retailers may decide to continue selling excepted goods at the pre-printed price which in effect would necessitate absorbing the GST. Therefore, there would be no need to provide appropriate signage. However, this would be a business decision to be made by individual retailers.

A detailed explanation of each Regulation is found in the explanatory notes.

There are no financial or manpower implications for the States arising from the adoption of this Draft Law. (The additional work will be undertaken within Economic Development's existing resources).

Explanatory Note

These Regulations introduce a requirement for the marking of the price of goods that are for sale by traders, being persons who sell the goods in the course of their business, to consumers, being individuals who buy the goods for domestic rather than business or commercial use.

Regulation 1 is the interpretation provision. There are 2 definitions in it relating to the price of goods on which the requirement to mark the price of goods depends. They are –

“base price” This is the price, excluding any GST, that the trader charges the consumer.

“selling price” This is the price that the consumer pays. If there is no GST on the sale, it is the same as the base price. If there is GST on the sale, it is the base price plus the GST.

Regulation 2 imposes the requirement on a trader to indicate the selling price of goods. There is an exception for goods which are supplied in the course of the provision of a service, for goods sold by auction and for the sale of works of art and antiques. The exception for goods which are supplied in the course of the provision of service includes the sale of food (which, as defined in these Regulations, includes “drink”) on licensed premises and at places of refreshment, each of which is subject to requirements for the display of prices which are imposed by other Laws. There is no requirement to indicate the price of goods where their sale is advertised but, if a trader chooses to give a price for goods in an advertisement, the price must then be indicated in accordance with *Regulation 6*.

Regulation 3 describes how the selling price shall be indicated.

The price must be in sterling.

If the goods are sold from bulk, that is, if the goods are not pre-packaged and are weighed or measured at the consumer’s request, the selling price must be indicated as a price per good, if the goods are sold by number (for example, “£10 each”) or a price per unit of measurement of the goods (for example, “60 pence per kilo”).

For all other goods the selling price per unit of sale of the goods must be indicated. However, there are 2 exceptions:

Paragraph (4) allows for alternative arrangements to be made to indicate the selling price of food that, before the food is imported, has been pre-packaged and had a price marked on the packaging which is not the selling price. In such a case, the requirement to mark the selling price may be satisfied by a combination of the price marked on the food package and an indication of either the amount that must be added to that price or of the percentage of that price that is to be added to it, in order to determine the selling price.

Paragraph (5) allows for like arrangements to be made to indicate the selling price of newspapers, periodicals and books that, before they are imported, have been printed to show a price that is not the selling price.

Any additional charge for postage, package or delivery of goods must also be indicated.

Example: A food item is imported marked £5 per pack.

The trader sells the food at a base price of £5 per pack.

The trader is registered for GST and therefore must charge GST on its sale, calculated on the base price, making the selling price £5.15.

The selling price will be satisfactorily indicated by the price marked on the package plus an indicator on or near the package that either 15 pence or 3% must be added to the price marked on the package.

Regulation 4 specifies how a price, amount, percentage or charge must be indicated. It must be unambiguous, clearly identifiable and clearly legible. It can be either on or close to the goods, and must be placed in such a way that the consumer can find it and establish the selling price.

Regulation 5 allows a trader who is selling goods at a reduction to put up notices or other visible indicators indicating the amount of the reduction.

Regulation 6 applies where a trader chooses to state a price for goods in an advertisement. The price must be shown in sterling, must be the selling price and must be indicated in a manner that is unambiguous. Any

additional charge for postage, package or delivery must also be shown.

Regulation 7 makes it an offence punishable by a fine of up to level 3 on the standard scale to contravene the Regulations. It also makes the following provision, required by Article 2(5) of the Price and Charge Indicators (Jersey) Law 200-:

Firstly, it provides that the person whose action or inaction causes the commission of the offence may be prosecuted for it, even though the requirement is imposed on another person, such as the retailer.

Secondly, it creates a defence. A person will not be guilty of an offence if its commission was due to a mistake, reliance on incorrect information, the act or inaction of another person, an accident, or another cause beyond the person's control, as long as the person took reasonable precautions and exercised due diligence to avoid the commission of the offence. If an accused intends to raise the defence on the ground that he or she was supplied with incorrect information or that the offence was due to another person's act or inaction, the accused must supply the person prosecuting with information about the identification of the person who supplied the information or whose action or inaction caused the defence. This information must be supplied at least 7 days before the proceedings for the offence commence. If it is not, the accused can only rely on the defence if the court so allows.

Regulation 8 provides for the citation of the Regulations and for them to come into force on 1st May 2008.

Re-issue Note

This projet is re-issued because of an error in the title.



Jersey

DRAFT PRICE INDICATORS (JERSEY) REGULATIONS 200-

Arrangement

Regulation

- 1 [Interpretation](#)
- 2 [Requirement to indicate price of goods](#)
- 3 [Price to be indicated](#)
- 4 [Manner and placement of indicators](#)
- 5 [General price reductions](#)
- 6 [Application to prices indicated in advertisements](#)
- 7 [Offences](#)
- 8 [Citation and commencement](#)



Jersey

DRAFT PRICE INDICATORS (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 2 of the Price and Charge Indicators (Jersey) Law 200-^[1], have made the following Regulations –

1 Interpretation

In these Regulations, unless the context otherwise requires –

“advertisement” means any form of advertisement which is made in order to promote the sale of goods, but does not include –

- (a) any advertisement by means of which a trader intends to encourage a consumer to enter into a distance contract;
- (b) a catalogue or price list; or
- (c) a container or label;

“base price” means the price charged by a trader to a consumer for a unit of goods or a given quantity of goods, exclusive of GST;

“consumer” means an individual who buys goods for purposes that do not fall within the sphere of his or her commercial or professional activity;

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

“food” includes drink;

“goods sold from bulk” means goods which are not pre-packaged and are weighed or measured at the request of the consumer;

“GST” means the goods and services tax charged under the Goods and Services Tax (Jersey) Law 2007^[2];

“selling price” means the final price to the consumer of a unit of goods, or a given quantity of goods, being the base price plus the GST (if any) charged on its supply;

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

“unit of measurement” means one kilogram, one pound, 100 grams, one quarter pound, one litre, one pint, one metre, one yard, one square metre, one square yard, one cubic metre or one cubic yard.

2 Requirement to indicate price of goods

- (1) Where a trader indicates that any goods are or may be for sale to a consumer, the trader shall indicate

the selling price of the goods in accordance with Regulations 3 to 5.

- (2) Paragraph (1) shall not apply –
 - (a) to goods which are supplied in the course of the provision of a service;
 - (b) to sales by auction or sales of works of art or antiques;
 - (c) except as provided in Regulation 6, to an advertisement for the goods.
- (3) The reference in paragraph (2)(a) to the supply of goods in the course of the provision of a service includes –
 - (a) the supply of food on premises licensed under the Licensing (Jersey) Law 1974^[3]; and
 - (b) the supply of food at any place of refreshment within the meaning of the Places of Refreshment (Jersey) Law 1967^[4].

3 Price to be indicated

- (1) Prices shall be indicated in sterling.
- (2) The selling price to be indicated in respect of goods sold from bulk shall be –
 - (a) where the goods are sold by number, the selling price per individual item of the goods;
 - (b) in any other case, the selling price per stated unit of measurement of the goods.
- (3) Subject to paragraph (4), the selling price to be indicated in respect of goods which are not goods sold from bulk shall be the selling price of the goods per unit of sale.
- (4) Where –
 - (a) before its importation into Jersey, food is packaged in the units in which it is to be sold to consumers and a price, in sterling, is marked on the packaging; and
 - (b) the price marked on the packaging is not the selling price,
the selling price may be indicated by a combination of –
 - (i) the price marked on the packaging, and
 - (ii) an indication of the amount, or of the percentage of the price marked on the packaging, which is to be added to that price in order to determine the selling price.
- (5) Where –
 - (a) before its importation into Jersey, a newspaper, periodical or book is printed with a price marked on it; and
 - (b) the price so marked is not the selling price,
the selling price may be indicated by a combination of –
 - (i) the price printed on the newspaper, periodical or book, and
 - (ii) an indication of the amount, or of the percentage of the price so printed, which is to be added to that price in order to determine the selling price.
- (6) Any charge that is made for postage, package or delivery of the goods shall also be indicated.

4 Manner and placement of indicators

- (1) Prices, amounts, percentages and charges required to be indicated in accordance with Regulation 3 shall be displayed –
 - (a) in a manner that is unambiguous, easily identifiable and clearly legible;
 - (b) subject to paragraph (2), on or in proximity to the goods; and
 - (c) so placed as to be available to consumers without the need for them to seek assistance from the

trader or someone on the trader's behalf to ascertain the selling price.

- (2) Paragraph (1)(b) shall not apply to an indication given in relation to any item of jewellery, item of precious metal or watch displayed in a window of the premises where it is or may be for sale, if the price exceeds £3,000.

5 General price reductions

Where a trader proposes to sell goods to which the requirement in Regulation 2 applies at less than the selling price previously applicable and indicated in accordance with these Regulations, the trader shall be taken to have satisfied the requirement to indicate the reduced selling price if the trader indicates, by a general notice or any other visible means, that the goods are or may be for sale at a reduction, provided that the details of the reduction are displayed in a manner that is unambiguous, easily identifiable and clearly legible.

6 Application to prices indicated in advertisements

- (1) This Regulation applies where a trader chooses to indicate, in an advertisement, the price of goods which are or may be for sale to a consumer.
- (2) Prices shall be indicated in sterling.
- (3) The selling price to be indicated in respect of goods sold from bulk shall be the price required by Regulation 3(2).
- (4) The selling price to be indicated in respect of goods which are not goods sold from bulk shall be the selling price of the goods per unit of sale.
- (5) Any charge which is made for the postage, package or delivery of the goods shall also be indicated.
- (6) The price and any charge shall be indicated in a manner that is unambiguous.

7 Offences

- (1) A person who contravenes any requirement of these Regulations is guilty of an offence and liable to a fine of level 3 on the standard scale.
- (2) Where the commission by a person of an offence under paragraph (1) is due to the act or default of some other person, that other person shall be guilty of the offence and may be proceeded against and convicted of the offence pursuant to Article 2(5)(a) of the Price and Charge Indicators (Jersey) Law 200-^[5], whether or not proceedings are taken against the first-mentioned person.
- (3) In any proceedings for an offence under paragraph (1) it shall, subject to paragraph (4), be a defence for the person charged to prove –
 - (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or her or to the act or default of another person, an accident or some other cause beyond his or her control; and
 - (b) that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by him or her or by any person under his or her control.
- (4) Where, in any case, the defence provided by virtue of paragraph (3) involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he or she has served on the Attorney General a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his or her possession.

8 Citation and commencement

These Regulations may be cited as the Price Indicators (Jersey) Regulations 200~~0~~ and shall come into force on 1st May 2008.

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- [1] *P.149/2007*
- [2] *L.27/2007*
- [3] *chapter 11.450*
- [4] *chapter 11.600*
- [5] *P.149/2007*