

**EXTRAORDINARY  
FIJI ISLANDS GOVERNMENT GAZETTE SUPPLEMENT**

No. 53

THURSDAY 4th NOVEMBER

2010

[LEGAL NOTICE NO. 116]

COMMERCE COMMISSION DECREE 2010  
(DECREE NO. 49 OF 2010)

**Commerce (Control of Prices for Hardware Items)  
(No. 2) Order, 2010**

IN exercise of the powers conferred upon the Commerce Commission by section 44 of the Commerce Commission Decree (No. 49) of 2010 and with the approval of the Minister, the Commerce Commission makes this Order—

*Citation and commencement*

1. This Order may be cited as the Commerce (Price Control) (Percentage Control of Hardware Items) (No. 2) Order 2010 and comes into force from the 5th of November 2010.

*Interpretation*

2.—(1) In this Order, unless the context otherwise requires—

“delivery cost” means the cost incurred in the delivery of goods to a retailer’s or re-wholesaler’s premises;

“manufacturing” means the conversion of unfinished products into finished products by means of manual labour or machinery;

“offer” includes exposing, displaying or keeping goods for sale by retail;

“package” means—

(a) The outermost receptacle, container or wrapper in which any price controlled items are encased, covered, enclosed, contained or packaged for the purpose of sale by retail; or

(b) If for retail sale there is provided a transparent outer cover or wrapper enclosing or covering a receptacle, container or wrapper, the receptacle, container or wrapper that is so enclosed or covered;

“price-controlled item” means an item specified in Schedule 1;

“related entity” means any of the following—

(a) a director or a member of that body or of a related body corporate;

(b) a relative, or de facto spouse, of such a director or member;

(c) a relative of a spouse, or of a de-facto spouse, of such a director or member;

(d) a body corporate that is related to the first mentioned body;

(e) a beneficiary under a trust of which the first mentioned body is or has at any been a trustee;

- (f) a relative, or de-facto spouse, of such a beneficiary;
- (g) a relative of a spouse, or of a de-facto spouse, of such a beneficiary;
- (h) a body corporate one of whose directors is also a director of the first-mentioned body;
- (i) a trustee of a trust under which a person is a beneficiary, where the person is a related entity of the first-mentioned body because of any other application or applications of this definition.

Ownership and cognate expressions shall widely be construed to include indirect ownership of interest whether held by family members, friends, or other businesses which the person may be interested financially or in any other indirect manner.

"re-wholesaler" means any person who purchases goods from a wholesaler for resale other than to a consumer;

"total into-store cost for pricing" means the cost calculated including cartage or freight in accordance with the formula and provisions as determined by the Commission;

(2) A reference in this Order to the cost to a trader of any goods or services includes a delivery cost properly incurred by the trader and not otherwise included in the calculation of the cost and is a reference to the lesser of the following—

- (a) the cost to the trader, as evidenced by the invoice for the transaction; or
- (b) the cost which would probably have been incurred for the provision of the same goods or services under similar conditions in the ordinary course of business, had the goods or services been obtained from an independent person usually engaged in the business of providing those goods or services.

(3) In the case of an importer of goods into Fiji Islands the total into-store cost for pricing formula applies whether or not the importer takes physical possession of the goods.

(4) For the purposes of this Order goods are deemed to be sold when possession of the goods has been taken by the purchaser and not otherwise.

*Maximum wholesale prices*

3.—(1) The maximum wholesale price of any price-controlled item, is fixed at the sum of the following:

- (a) The total into-store cost for pricing of the goods of the wholesaler;
- (b) The mark-up on the total into-store cost for pricing of an amount no greater than the wholesale percentage prescribed in Schedule 1;
- (c) If the wholesaler has imported the goods into Fiji Islands, a mark-up on the total into-store cost for pricing of an amount no greater than the import percentage prescribed in Schedule 1.
- (d) A delivery cost incurred by a wholesaler may also be charged if that charge is stated separately in the invoice provided at the time of sale.

(2) Clause 4 does not apply to a wholesaler or a related entity of the wholesaler that retails goods;

(3) The above costs shall be determined by the Commission upon submission of all documentary evidences of all the costs incurred by the wholesaler and may only be charged after approval from the Commission.

*Maximum re-wholesale prices*

4.—(1) The maximum re-wholesale price of any price controlled item is fixed at the sum of the following amounts—

- (a) The total into-store cost for pricing of the goods to the re-wholesaler;
- (b) A mark-up on that cost of an amount no greater than the wholesale percentage prescribed in Schedule 1.
- (c) A delivery cost incurred by a re-wholesaler may also be charged if that charge is stated separately in the invoice provided at the time of sale.

(2) Clause 5 does not apply to a re-wholesaler or a related entity of the re-wholesaler that retails goods.

(3) The above costs shall be determined by the Commission upon submission of all documentary evidences of all the costs incurred by the wholesaler and may only be charged after approval from the Commission.

*Maximum Retail prices*

5. The maximum retail price of any price controlled item is fixed at the sum of the following amounts—

- (a) The total into-store cost for pricing of the goods to the retailer or in the case of an importer who sells by retail, the total into-store cost for pricing;
- (b) A mark-up on that cost of an amount no greater than the retail percentage prescribed in Schedule 1;

(2) A retailer that imports goods into the Fiji Islands, is prohibited from charging a mark-up on the into-store cost for importing the good or any amount stipulated in Schedule 1, other than a mark-up stipulated in paragraph (b) of sub-section (1);

(3) The above costs shall be determined by the Commission upon submission of all documentary evidences of all the costs incurred by the wholesaler and may only be charged after approval from the Commission.

*Packaging*

6.—(1) the maximum retail price of any price calculated in the manner prescribed in clause 6 in includes the cost of the packaging described in Schedule 1.

(2) If a trader in paints and other coatings repackages goods in container supplied by him, he or she may make an additional charge for those containers not exceeding the higher of—

- (a) the into-store cost of the container; or
- (b) the amount which the consumer can obtain for the empty container in good condition in the open market.

(3) the weight of packaging must not be included in the weight sold to the consumer at the price calculated in the manner prescribed in clause 6.

*Prices to be marked or displayed*

7.—(1) Subject to paragraph (2) any person having any price-controlled item for sale by retail shall cause it to be legibly and conspicuously marked with the maximum retail price for the information of the public.

(2) Where the retailer's goods may be affected where the price is displayed in a prominent position, a legible and conspicuous notice clearly indicating those goods to which the notice relates and the maximum retail price of the goods.

*Marking of goods*

8. No person may—

- (a) Sell by retail or offer for sale by retail any price controlled item at a price in excess of that marked on such item, such maximum retail price having been calculated in the manner prescribed in clauses 6 and 7; or
- (b) Sell by retail or offer for sale by retail any price-controlled item if the item—
  - (i) Is not marked with its maximum retail price being calculated in the manner prescribed in clauses 6 and 7; and
  - (ii) If the maximum retail price has been removed, obliterated, concealed or altered (other than an alteration reducing the maximum retail price shown on the item).

*Records*

9.—(1) A trader dealing in a price controlled item must keep to the satisfaction of the Commission the records and accounts, including stock and costing records, as are customary and proper in the type of business carried on by him, and without limiting the generality of the foregoing—

- (a) A wholesaler shall maintain records—
  - (i) Sufficient to identify goods sold to any individual retailer;
  - (ii) Showing the price at which those goods were sold and
  - (iii) Containing a record of the receipt of those goods into-store and the cost at which those goods were received into-store; and
- (b) Any trader, whether selling by wholesale, re-wholesale or by retail, shall maintain pricing records showing—
  - (i) The basis on which the selling prices are arrived at by reference to the total into-store cost for pricing calculations;
  - (ii) The basis on which all subsequent price variations are calculated by reference to the total into-store cost for pricing calculations; and
  - (iii) Delivery costs.

(2) Where goods are sold by a wholesaler at a price which includes the delivery cost, the delivery cost shall be stated separately in the invoice provided at the time of sale.

*Value Added Tax (VAT)*

11.—(1) Wholesalers and re-wholesalers must state Value Added Tax (VAT) separately (if applicable) in the invoice provided at the time of sale.

(2) Traders not registered under Section 22 of the Value Added Tax Decree 1991 (Decree No. 45) are not entitled to refunds of Value Added Tax on their purchases and are therefore not entitled to deduct Value Added Tax (VAT) paid on purchases and also are not entitled to charge Value Added Tax (VAT) on their sales.

*Expiration of Order*

12. This Order expires three years from the date this Order is made unless it is varied, extended or earlier revoked.

*Revocation*

13. The determination of prices of products and items specified in this order supersedes the requirement under the Counter-Inflation (Price Control) (Building Materials) (No. 25) Order 2008 effective immediately.

MADE this      day of              2010.

M. REDDY  
Chairman  
Fiji Commerce Commission

APPROVED by me this      day of              2010.

A. SAYED-KHAIYUM  
Attorney General and Minister for  
Justice, Anti-Corruption, Public Enterprises,  
Industry, Tourism, Trade and Communications

## SCHEDULE

ITEM	DESCRIPTION	IMPORT PERCENTAGE	WHOLESALE PERCENTAGE	RETAIL PERCENTAGE	PACKAGING
1 (a)	Fasteners (all types)-Imported	10%	5%	20%	According to Trade Custom
(b)	Fasteners (all types)-Local	NIL	10%	20%	
2 (a)	Paint (all types)-Imported	10%	5%	18%	According to Trade Custom
(b)	Paint (all types)-Local	NIL	10%	18%	
3 (a)	Tools (all types) - Imported	8%	5%	20%	According to Trade Custom
(b)	Tools (all types) - Local	NIL	10%	20%	
4 (a)	Electrical Products (all types) -Imported	8%	5%	20%	According to Trade Custom
(b)	Electrical Products (all types) -Local	NIL	10%	20%	
5 (a)	Plumbing Equipments & Fittings (all types) -Imported	10%	5%	20%	According to Trade Custom
(b)	Plumbing Equipments & Fittings (all types) -Local	NIL	10%	20%	
6 (a)	Timber (all types) -Imported	8%	5%	18%	According to Trade Custom
(b)	Timber (all types) -Local	NIL	10%	20%	
7 (a)	Roofing products (all types) -Imported	8%	5%	18%	According to Trade Custom
(b)	Roofing products (all types) -Local	NIL	10%	20%	
8 (a)	Concrete Blocks (all types) -Local	NIL	10%	20%	According to Trade Custom
9 (a)	Louvre Frames (all types) - Imported	8%	5%	15%	According to Trade Custom
(b)	Louvre Frames (all types) - Local	NIL	8%	15%	
10	Cladding and Boards (all types)-Imported	10%	5%	15%	According to Trade Custom
11	Plywood (all types)- Local	NIL	18%	15%	According to Trade Custom

NOTE: For wholesale price see paragraph 4 &amp; 5

For retail price see paragraph 6