

1973 No. 1787

COUNTER-INFLATION

**The Counter-Inflation (Prices and Charges) (Information)
(No. 3) Order 1973**

Made - - - - 26th October 1973
Coming into Operation 1st November 1973

The Secretary of State, in exercise of powers conferred on him by section 15 of the Counter-Inflation Act 1973(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Counter-Inflation (Prices and Charges) (Information) (No. 3) Order 1973 and shall come into operation on 1st November 1973.

(2) In this Order—

“the Act” means the Counter-Inflation Act 1973;

“bank, finance house or similar enterprise” means a person (other than a building society incorporated under the Building Societies Act 1962(b) or under the enactments repealed by that Act) whose ordinary business includes the business of banking, the business of lending money, the letting of goods under hire purchase agreements, or the selling of goods under conditional sale agreements;

“base period” has the meaning assigned to it in article 3(5);

“coal or steel undertaking” means an undertaking as defined in article 80 of the Treaty establishing the European Coal and Steel Community, signed at Paris on 18th April 1951, otherwise than for the special purposes therein mentioned;

“the code” except where the context otherwise requires, means the code for the time being contained in an order(c) under section 2 of the Act;

“distributor” means a person who carries on in the course of business activities falling within Order XXIII (other than the wholesale slaughtering of animals for human consumption, leasing industrial or office machinery or the hiring of furniture, radio and television sets and other domestic appliances) or falling within minimum list heading 894 of Order XXVI (other than the repairing of motor vehicles) of the Standard Industrial Classification;

“gross percentage margin” has the same meaning as it has in and for the purposes of the code;

(a) 1973 c. 9.

(b) 1962 c. 37.

(c) See S.I. 1973/1785 (1973 III, p. 5445).

“manufacturer” means a person who carries on in the course of business activities falling within Orders II, III (other than the quick freezing of meat, poultry or fish, the curing of bacon or ham and the preparation of oven ready poultry), IV to XIX, XXI and XXII (other than travel ticket agents) of the Standard Industrial Classification;

“net profit margin” has the same meaning as it has in and for the purposes of the code;

“the notification order” means the Counter-Inflation (Notification of Increases in Prices and Charges) (No. 3) Order 1973(a);

“provider of construction services” means a person who carries on in the course of business activities falling within Order XX of the Standard Industrial Classification (other than the hiring of contractors’ plant and scaffolding);

“provider of professional services” means a person who carries on in the course of business activities falling within Order XXV (other than the provision of school meals) of the Standard Industrial Classification or the activity of a house or estate agent;

“provider of services” means a person who carries on in the course of business activities falling within minimum list headings 864 and 865 of Order XXIV or within Order XXVI (other than minimum list heading 894) of the Standard Industrial Classification or the hiring of furniture, radio and television sets and other domestic appliances, or the leasing of industrial, construction or office plant, machinery or other equipment or the repairing of motor vehicles or the activities of a travel ticket agent;

“the Standard Industrial Classification” means the edition thereof published in 1968 by Her Majesty’s Stationery Office as amended by Amendment List No. 1 published by Her Majesty’s Stationery Office in 1970.

(3) Paragraphs (2) to (5) of article 4 of the notification order shall have effect for ascertaining for the purposes of this Order whether a price or charge represents an increase.

(4) Where a person satisfies more than one of the definitions of the following expressions contained in paragraph (2) above, that is to say, “bank, finance house or similar enterprise”, “distributor”, “manufacturer”, “provider of construction services”, “provider of professional services” and “provider of services”, the provisions of this Order shall apply to him in relation to each of the expressions he satisfies.

(5) Paragraph 2(1) of Schedule 3 to the Act (which relates to the identification of two or more different persons) shall apply for the purposes of this Order as it applies for the purposes of sections 5 to 7 of the Act, but, in relation to articles 4, 7, 8 and 9, only so as to require a person to furnish returns or to keep records relating to the activities which he himself carries on: provided that any of the several persons who are by virtue of this paragraph to be treated as one may furnish returns or keep records on behalf of any other such person.

(6) Nothing in this Order applies to any person who is a body established for religious, charitable, educational, representational or recreational purposes, which is non-profit making and does not carry on a trade or business as its main activity.

(7) The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if this Order and the Orders hereby revoked were Acts of Parliament.

(a) S.I. 1973/1786 (1973 III, p. 5488).

(b) 1889 c. 63.

Revocation and Saving

2.—(1) The Counter-Inflation (Prices and Charges) (Information) Order 1973(a) and the Counter-Inflation (Prices and Charges) (Information) (No. 2) Order 1973(b) are hereby revoked.

(2) Anything done or required to be done under the Orders hereby revoked before the commencement of this Order shall, for the purposes of this Order, be treated as if it had been done or required to be done under this Order.

Ascertainment of sales for determining application of articles 4, 7, 8, and 9.

3.—(1) This article shall have effect only for the purpose of ascertaining whether article 4, 7, 8 or 9 applies to a person.

(2) Subject to paragraphs (3) and (4) of this article, there shall be taken into account in determining sales in relation to goods the total amount (excluding excise duties) of prices charged for their sale in the course of business in the base period and, in relation to services of all descriptions, the total amount of charges made in the base period for their performance, there being left out of account, in either case, trade discounts, rebates and other allowances.

(3) There shall be left out of account—

(a) any price or charge to which by virtue of paragraph 1 of Schedule 2 to the notification order that Order does not apply and, in the case of transport, charges for carriage between terminals of which one or both are outside the United Kingdom and charges for carriage between points in the United Kingdom where the tariff applicable to those charges is one for the whole of the first mentioned carriage; and in this paragraph “United Kingdom” includes the Isle of Man and the Channel Islands;

(b) in the case of a person who is a manufacturer, the price for the sale of goods manufactured by another person;

(c) in the case of a person who is a manufacturer, distributor, provider of services, provider of construction services or provider of professional services, the price for the sale of goods or the charge for the performance of services in the course of any activity not mentioned in the respective definitions of those expressions in article 1(2); and

(d) in the case of a person who has ceased to carry on an activity in the course of business since the beginning of the base period, any price or charge in respect of that activity.

(4) Where a person has not carried on an activity in the course of business throughout the whole of the base period—

(a) in the case of a person who commenced to carry on that activity in the course of business (not being an activity to which sub-paragraph (b) of this paragraph applies) or who ceased to carry on that activity in the base period, the amounts determined under this article apart from this paragraph shall be increased by the proportion which 12 months bears to the period falling within the base period during which he so carried on that activity;

(b) in the case of a person who commenced to carry on that activity in the base period in succession to another person (whether upon purchase, amalgamation or reconstruction, or otherwise) the amounts determined

(a) S.I. 1973/778 (1973 I. p. 2463).

(b) S.I. 1973/968 (1973 II. p. 2988).

under this article apart from this paragraph both in respect of the person and of that other person shall be aggregated and—

- (i) if the aggregate of the periods during which the person and that other person carried on that activity during the base period exceeds 12 months, the aggregated amounts shall be reduced; or
 - (ii) if the aggregate of those periods is less than 12 months, the aggregated amounts shall be increased,
by the proportion which 12 months bears to the aggregate of those periods;
- (c) in the case of a person who commenced to carry on an activity after the end of the base period in succession to another person (whether upon purchase, amalgamation or reconstruction, or otherwise) this article shall apply to the person as it would have applied to that other person had he carried on no other activity in the course of business in the base period.

(5) In this Order, “base period” in relation to any person means his latest completed year of account; and the amounts referred to in paragraph (2) above shall, where the accounting period is longer than 12 months, be reduced or, where the accounting period is shorter than 12 months, be increased by the proportion which 12 months bears to the length of the accounting period.

(6) In ascertaining the amount of sales in relation to any person, whether as a distributor, a manufacturer, a provider of construction services, a provider of professional services or a provider of services, account shall be taken of all transactions effected by the persons (of whom he is one) who are, under article 1(5), to be treated as one, including any transaction between such persons except where both parties to the transaction are acting as distributors, manufacturers, providers of construction services, providers of professional services or providers of services, as the case may be.

Obligation to furnish periodical returns

4. Subject to article 11, each person—

- (a) who is a manufacturer and has sales exceeding £5,000,000;
- (b) who is a distributor and has sales exceeding £10,000,000;
- (c) who is a provider of services and has sales exceeding £5,000,000;
- (d) who is a provider of construction services and has sales exceeding £5,000,000;
- (e) who is a provider of professional services and has sales exceeding £500,000; or
- (f) who is a bank, finance house, or similar enterprise and had on 30th March 1973 gross sterling deposits exceeding £200,000,000 or, in the case of one or more companies which are banks, finance houses or similar enterprises and are controlled by the same person, together with that person, had on that date gross sterling deposits exceeding that amount;

shall furnish to the Commission returns in accordance with article 5 relating to each activity carried on by him in the course of business being an activity referred to in the relevant definition in article 1(2).

*Time for and contents of returns under article 4***5.—(1)** Returns under article 4 (reconcilable with annual accounts)—

(a) may be related to management accounting periods but shall not be less than 4 nor more than 5 in number in each year and all, or all but one, of them shall relate to periods of approximately the same length not being less than 12 weeks; and

(b) shall relate to all times after 28th April 1973;

and each return shall be furnished to the Commission within 42 days after the end of the period to which it relates.

(2) No return shall be required to be furnished in relation to any period of 12 weeks during the whole of which article 4 does not apply to the person in question, or in respect of any matter of which particulars have not changed since the preceding return.

(3) A return under article 4—

(a) shall specify the period to which it relates and shall contain particulars of the matters specified in Part I of the Schedule; and

(b) shall contain a declaration in the form and containing the particulars specified in Part II of the Schedule signed by the person or one of the persons required to make the return or, in the case of a body corporate, by an officer of the body corporate.

*Transitional provisions relating to returns***6.—(1)** A return under article 4 relating to a period of which part falls before 1st November 1973 shall state—

(a) the date of implementation of any increase in a price or charge specified pursuant to paragraph 6 of Part I of the Schedule; and

(b) the date when any variation in costs, specified pursuant to paragraph 7 of Part I of the Schedule, takes effect.

(2) Particulars of the net profit margin specified in a return referred to in paragraph (1) above pursuant to paragraph 5(2) of Part I of the Schedule—

(a) may be in two parts, one part being in respect of the part of the period ending on or after 1st November and before 8th November 1973 and prepared on the assumption that the code contained in the Counter-Inflation (Price and Pay Code) Order 1973(a) (in this paragraph called "the Stage 2 Code") was in force throughout that part of the period and the other part being in respect of the remainder of the period and prepared on the assumption that the code contained in the Counter-Inflation (Price and Pay Code) (No. 2) Order 1973(b) (in this paragraph called "the Stage 3 Code") was in force throughout that part of the period; or

(b) may be prepared, in respect of the whole of the period, both on the assumption that the Stage 2 Code was in force throughout the period and also on the assumption that the Stage 3 Code was in force throughout the period; or

(c) where the period ends before 15th November 1973, may be prepared on the assumption that the Stage 2 Code was in force throughout the period.

(a) S.I. 1973/658 (1973 I, p. 2106).

(b) S.I. 1973/1785 (1973 III, p. 5445).

(3) In relation to a return or part of a return to be prepared on the assumption that the Stage 2 Code was in force, in Part I of the Schedule—

- (a) for the reference in paragraph 2(1) to paragraph 74 of the code, there shall be substituted a reference to paragraph 66 of the Stage 2 Code; and
- (b) for the reference in paragraph 5(1) to paragraph 60 of the code, there shall be substituted a reference to paragraph 53 of the Stage 2 Code.

Special return to be furnished before 1st December 1973

7.—(1) A person referred to in article 4 shall before 1st December 1973 furnish to the Commission a return giving—

- (a) particulars of the reference level of the net profit margin determined in accordance with paragraph (i) or paragraph (ii) of paragraph 60 of the Code; and
- (b) in the case of a distributor, particulars of the level of the gross percentage margin ascertained under paragraph 74 of the code;

together, in each case, with the manner in which it is calculated; and a return under this paragraph may be contained in a return under article 4 or 8 or in a notification under article 5 of the notification order.

(2) Where a person required to make a return under this article intends to request that a unit should be approved by the Commission for the purpose of profit margin control under paragraph 60(iii) of the code, he may in the return make an application to the Commission that they should approve for that purpose a unit therein specified; and the application shall contain particulars relating to the matters of which the Commission are, under that paragraph, required to be satisfied.

Obligation to furnish returns of increases in prices and charges quoted before 15th November 1973

8.—(1) Each person—

- (a) who—
 - (i) is a manufacturer and has sales exceeding £5,000,000 but not exceeding £50,000,000; or
 - (ii) is a provider of services and has sales exceeding £5,000,000 but not exceeding £20,000,000;
- (b) who would, under article 5 of the notification order, be required to notify an increased price for the sale of any goods or an increased charge for the performance of any services if the increased price or charge was to be implemented after 14th November 1973; and
- (c) who quotes such an increased price or charge after 31st October and before 15th November 1973;

shall furnish to the Commission a return in accordance with this article.

(2) A return under this article—

- (a) shall be furnished to the Commission not later than the date when the increased price or charge to which it relates is first quoted;
- (b) subject to paragraph (3) below, shall contain particulars of the matters specified in Schedule 3 to the notification order; and

(c) shall be in writing signed by the person or one of the persons required to make the return or his authorised agent or, in the case of a body corporate, signed by an officer of the body corporate making the return and shall be dated.

(3) For the purposes of this article, Schedule 3 to the notification order shall be construed as if—

(a) references to a notification of an increased price or charge were references to a return under this article; and

(b) references to an intention to implement an increased price or charge were references to the quoting of an increased price or charge.

(4) For the purposes of this article, a price or charge is quoted by a person when he offers to sell goods at that price or to perform services for that charge or when he gives notice of intention to do business at that price or for that charge by any display, circular, advertisement or other public notice.

Obligation to keep records

9. Subject to article 11 each person (other than a person referred to in article 4)—

(a) who is a manufacturer and has sales exceeding £1,000,000;

(b) who is a distributor and has sales exceeding £250,000;

(c) who is a provider of services and has sales exceeding £250,000;

(d) who is a provider of construction services and has sales exceeding £1,000,000;

(e) who is a provider of professional services and has sales exceeding £100,000; or

(f) who is a bank, finance house or similar enterprise and on 30th March 1973 had outstanding lending balances owed to him and balances outstanding under hire purchase or conditional sale agreements, repayable or payable in sterling, exceeding in total £10,000,000 or, in the case of one or more companies which are banks, finance houses or similar enterprises and are controlled by the same person, together with that person, had such balances exceeding in total £10,000,000;

shall keep the records specified in article 10.

10.—(1) The records referred to in article 9 are records of the particulars specified in Part I of the Schedule, but those records may be comprised in or combined with other records from which those particulars may readily be derived.

(2) The records referred to in article 9 shall be maintained by a person in respect of the whole of the period commencing on 29th April 1973.

Provisions supplemental to articles 4 and 9

11.—(1) Unless the Commission so request, a return under article 4 or a record under article 9 shall not contain—

(a) in the case of a person referred to in paragraphs (a) or (c) to (f) of article 4 or of article 9, particulars relating to any goods or services in respect of

which no notice of an intended increased price or charge is, by virtue of Schedule 2 (except paragraph 12(c)) to the notification order, required to be given to the Commission or relating to the provision of accommodation in aircraft;

(b) in the case of any person, any particulars (other than those referred to in paragraph 1(1) of Part I of the Schedule) which have been contained in a previous return under this Order, a notification of an intended increased price or charge under the notification order or under the Orders hereby revoked, a proposal under an Order under paragraph 1 of Schedule 2 to the Act, or any particulars which have been furnished to the Commission pursuant to a notice under section 15(1) of the Act.

(2) A return under article 4 shall indicate which amounts (if any) contained in it are estimated amounts and a corrected amount shall be contained in the first return required to be made after corrected accounts are prepared or, where no such return is required to be made, shall be furnished in a special return within 21 days after those accounts are prepared.

26th October 1973.

Geoffrey Howe,
Minister for Trade and Consumer Affairs,
Department of Trade and Industry.

THE SCHEDULE (Articles 3(3)(a) and 10(1))

PART I

PERIODICAL RETURNS AND RECORDS

Person required to furnish the return or to keep the record

1.—(1) The name of the person required to furnish the return or to keep the record, his address or, in the case of a body corporate, its registered or principal office in the United Kingdom, and the address for service of notices by the Commission, if different.

(2) In the case of a company which is controlled by any person, his name and the names of all other companies controlled by him and carrying on business in the United Kingdom.

(3) In the case of a company, any change in its structure or in the identity of any company controlled by the same person (including any such change since the period to which the reference level relates).

(4) The unit for profit margin control, determined in accordance with the code, to which the return or record relates; and its title and address.

Gross percentage margin

2.—(1) In the case of a distributor, particulars of the level of the gross percentage margin ascertained under paragraph 74 of the code.

(2) The gross percentage margin as a distributor of the person required to make the return or to keep the record and the total value of sales to which it relates.

Profits, sales and costs

(Paragraphs 3, 4, 6 and 7 do not apply to distributors.)

3. The nature of the activity or activities to which the return or record relates and the goods or services to which each activity relates.
4. The total value of sales (including charges for the performance of services).
- 5.—(1) Particulars of the reference level of the net profit margin determined in accordance with paragraph 60 of the code.
(2) Particulars of the net profit margin corresponding to the reference level and the manner in which it is calculated.
6. Particulars of any increase or decrease in any price or charge, specifying the goods or services to which the varied price or charge relates.
7. Particulars of any variation in costs which, in accordance with the provisions of the code, justify the variation in a price or charge specified pursuant to paragraph 6 above.

Special provisions relating to banks, finance houses or similar enterprises

- 8.—(1) In relation to hire purchase and conditional sale, the net income therefrom (less associated costs, including overheads) and the average resources employed therein.
(2) In relation to every other activity, the gross and net income therefrom calculated in accordance with the code (including associated overheads).

PART II

DECLARATION

I, [name of person making the return and the capacity in which he makes it] of [address] on behalf of [myself *or* name of person required to make the return if different] pursuant to article 4 of the Counter-Inflation (Prices and Charges) (Information) (No. 3) Order 1973, make this return to the Price Commission in respect of the period beginning on [date] and ending on [date] and declare that, to the best of my knowledge, information and belief, the particulars specified herein are correct and complete.

Signed: [signature of person making the return]

Date: [date of signature]

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates the Counter-Inflation (Prices and Charges) (Information) Order 1973 and the Counter-Inflation (Prices and Charges) (Information) (No. 2) Order 1973 with modifications. The principal changes are—

- (a) the leasing of industrial, construction or office plant, machinery or other equipment is now to be treated as the provision of a service (Article 1(2));
- (b) the periods to which returns about prices and charges are to relate have been revised (Article 5(1));

- (c) manufacturers having sales over £5 million and under £50 million and providers of services having sales over £5 million and under £20 million are obliged to notify the Price Commission of increases in prices and charges made between 1st and 14th November 1973 as they are made (Article 8). (This is a transitional provision; increases which are proposed to take effect from 15th November onwards must be pre-notified to the Price Commission under the provisions of the Counter-Inflation (Notification of Increases in Prices and Charges) (No. 3) Order 1973);
- (d) transitional provisions are made relating to returns which cover a period falling partly within Stage 2 and partly within Stage 3 (Article 6);
- (e) new provisions are made for reporting to the Price Commission particulars of net profit margin units and reference levels and gross percentage margins in accordance with the Price and Pay Code for Stage 3 (Article 7).

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