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 STATUTORY INSTRUMENTS
 

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1973 No. 1785

**COUNTER-INFLATION****The Counter-Inflation (Price and Pay Code) (No. 2) Order 1973**

<i>Made</i>	- - -	26th October 1973
<i>Laid before Parliament</i>		30th October 1973
<i>Coming into operation</i>		1st November 1973

The Treasury, in exercise of the powers conferred on them by section 2 of the Counter-Inflation Act 1973(a) and of all other powers enabling them in that behalf, and having consulted the Price Commission and the Pay Board and representatives of consumers, persons experienced in the supply of goods or services, employers and employees and other persons in accordance with subsection (4) of the said section 2, hereby make the following Order:—

1.—(1) This Order may be cited as the Counter-Inflation (Price and Pay Code) (No. 2) Order 1973 and shall come into operation on 1 November 1973.

(2) 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 for the purposes of section 38 of that Act this Order were an Act of Parliament and the Order revoked by Article 3 of this Order were an Act of Parliament thereby repealed.

2.—(1) The Price and Pay Code prepared by the Treasury and set out in the Schedule to this Order shall be the code for the purposes of the Counter-Inflation Act 1973.

(2) Part I of the Code, and so much of paragraphs 1, 2 and 186 thereof as relates to the Price Commission, shall come into force on 1 November 1973; and Part II of the Code, and so much of the said paragraphs as relates to the Pay Board, shall come into force on 7 November 1973.

3.—(1) Subject to paragraph (2) below, the Counter-Inflation (Price and Pay Code) Order 1973(c) is hereby revoked but Part II of the Code set out in the Schedule to that Order, and so much of paragraphs 1, 2 and 153 thereof as relates to the Pay Board, shall remain in force until Part II of the Code set out in the Schedule to this Order comes into force.

(2) Where notice of an increase in a price or charge given to the Price Commission under the Counter-Inflation (Notification of Increases in Prices and Charges) Order 1973(d) and received at the offices of the Commission

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(a) 1973 c.9.

(b) 1889 c.63.

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

(d) S.I. 1973/664 (1973 I, p. 2151).

before 1 November 1973 falls to be considered by the Commission on or after that date, the Commission shall, in considering the increase, have regard to Part I of the Code set out in the Schedule to the Counter-Inflation (Price and Pay Code) Order 1973, and so much of paragraph 153 thereof as relates to the Commission, as if this Order had not been made.

*Hugh Rossi,*

*Oscar Murton,*

26th October 1973.

Two of the Lords Commissioners  
of Her Majesty's Treasury.

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**SCHEDULE**

(Article 2(1))

**The Price and Pay Code**

1. The Code has a dual function. First, the Price Commission and Pay Board are required to exercise their powers so as to ensure that it is implemented. Secondly, all those concerned with the determination of prices and pay should have regard to it.

2. The Code is therefore addressed both to the Commission and the Board and to all those concerned with price and pay determination. Part I deals with prices and Part II with pay.

**Part I—Prices****General Principles**

3. The general principles relating to prices are:—
- (i) to limit the extent to which prices may be increased on account of increased costs, and to secure reductions as a result of reduced costs;
  - (ii) to reinforce the control of prices by a control on profit margins while safeguarding investment;
  - (iii) to reinforce the effects of competition, and to secure its full benefits in the general level of prices.

**Field of Application**

4. With the exceptions specified in paragraphs 5 to 11 below, the prices of goods and services supplied to the United Kingdom home market are within the scope of the control.

5. The prices of goods and services exported (whether directly or through an agent or merchant) are not controlled.

6. The following are not controlled:—
- (i) prices paid on first sale into the United Kingdom of imported goods and services;
  - (ii) prices of goods and services where the application of the control would be inconsistent with an international agreement or arrangement. For this purpose, an international agreement or arrangement is one between states or organisations of states, not between firms;
  - (iii) prices at sales by auction, where such sales are a normal practice in the particular trade;
  - (iv) prices of goods at the point of sale on a commodity market in the United Kingdom such as the London Metal Exchange or prices directly determined by reference to such markets;
  - (v) prices of second-hand goods (other than second-hand road vehicles sold by distributors);
  - (vi) charges for the carriage of goods or passengers on international journeys; charges for air navigation, landing and related services and ship, passenger and goods dues, provided that they

- relate wholly or mainly to such traffic; charges for international mail, Giro, remittance and telecommunication services;
- (vii) prices of ethical medicines supplied to the United Kingdom market to the extent that regulation of their prices is within the scope of any agreement relating to those prices made between the Secretary of State for Social Services and representatives of manufacturers of those medicines; but only so long as such an agreement is in force;
  - (viii) prices in contracts for the Secretary of State for Defence for warlike stores and services which are within the agreement between Her Majesty's Government and industry governing the pricing of, and control of profit from, non-competitive contracts. These prices will be subject to the controls provided in that agreement;
  - (ix) insurance premiums, which will be subject to restriction by the Secretary of State for Trade and Industry;
  - (x) taxi fares, where subject to control by the Home Secretary or the Secretary of State for Scotland;
  - (xi) charges payable to returning officers in connection with Parliamentary elections, determined under the Representation of the People Act 1949(a);
  - (xii) prices determined by a statutory body which, as a result of an order made under section 8 of the Counter-Inflation Act 1973, is required to apply the Code to the determination of those prices;
  - (xiii) subscriptions and certain prices charged by non-profit-making organisations as in paragraphs 107 to 109.

*Application to food, farming and forestry products*

7. The prices of manufactured food and drink, like those of manufactured products generally, are within the scope of the control as are those of semi-processed foodstuffs such as butter, cheese, sugar and quick-frozen vegetables.

8. The prices paid to United Kingdom producers or producers' organisations or to overseas suppliers for fresh foods and similar products, which are subject to fluctuations on world and United Kingdom markets because of seasonal factors or changes in the relationship between supply and demand, are not controlled. This applies in particular to meat, including bacon and poultry, fish, eggs, fruit and vegetables. However, enterprises which resell these products, whether home-produced or imported, at any subsequent stage will be subject to control.

9. The retail price of milk for liquid consumption and the margins of milk distributors will continue to be subject to the existing controls by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Scotland. So long as these controls apply, the price of milk for liquid consumption will not be subject to the Code.

10. The prices of milk for manufacture of products for sale in the United Kingdom will, however, be subject to the following requirements. Except where the Milk Marketing Boards incur additional allowable cost increases in marketing the milk:—

- (i) the price of milk for the manufacture of butter and skimmed milk powder may not be increased above current levels (adjusted as necessary to reflect changes in the intervention prices); and
- (ii) for other milk products, the price of milk may not be increased above the prices of milk for butter and skimmed milk powder (adjusted by not more than the average premium received by the Boards for milk for the product concerned over the butter and skimmed milk prices in the year ending 30 April 1973).

11. What is said in paragraph 8 in relation to prices paid for fresh foods applies also to prices of other primary products of animal or vegetable origin which are subject to similar fluctuations.

#### *Charges*

12. References in the Code to prices include references to charges, unless there is explicit provision to the contrary.

#### *Goods and services*

13. References in the Code to goods or products include references to services, unless there is explicit provision to the contrary.

#### **Definition of Enterprise**

14. With the exceptions described in paragraph 15, for the purposes of the Code an enterprise means either an enterprise as a whole or a separate constituent company or sub-division provided that in the latter case separate accounts for such sub-divisions:—

- (i) are or can be made available for all relevant periods;
- (ii) are not materially distorted by transactions conducted otherwise than on arm's length terms;
- (iii) would, if combined with one another and with the accounts of all other activities or transactions of the enterprise, produce results consistent with those shown by the accounts of the enterprise taken as a whole.

15. The definition in paragraph 14 does not apply where the unit for net profit margin control, as defined in paragraphs 60 and 61, is the relevant one. Accordingly the definition in paragraph 14 does not apply in paragraphs 34, 57 to 69, 71; or, where they deal with net profit margins, in paragraphs 20, 56, 70, 78 and 79; or in other paragraphs which refer to these.

16. A reference to an enterprise includes a reference to a co-operative, a partnership or to an individual carrying on a business.

*Mixed enterprises*

17. Where the activities of an enterprise are not confined to manufacturing, distribution, or the provision of services, but include more than one of these, each of these activities may be treated separately for all the purposes of the Code including the calculation of net profit margins provided that adequate accounts satisfying paragraph 14 are or can be made available for each of them. Where these activities are not treated separately, the main activity of the enterprise will determine whether the provisions of the Code relating to manufacturing, distribution or services apply.

**Costs and Prices**

18. Prices which are within the control may not be increased unless there is an increase in total costs per unit of output. No increase may exceed the increase in total costs per unit.

19. Where there is an increase in total costs per unit, only those increases defined in the Code as "allowable cost increases" may be taken into account in arriving at the permitted price increase, and they will be subject to a productivity deduction where appropriate.

*Price reductions*

20. Prices should be reduced whenever possible. Where there is a fall in raw material prices or other allowable costs, this should be fully reflected in price reductions. Reductions are however not required to exceed the fall in total costs per unit of output. In addition prices should be reduced as required in paragraphs 59 and 79 where, in the case of a distributor, its gross percentage margin, and in the case of any enterprise, its profit margin reference level is exceeded, or is likely to be exceeded.

*Base date*

21. The starting point for the calculation of permitted price increases is the level of costs per unit of output at 30 April 1973. In calculating permitted price increases, cost increases first incurred after 30 April 1973 may be taken into account, to the extent that they have not already been reflected in prices. Where the price of a particular product or of a range of related products has not been increased since 30 September 1972, that date may, at the option of the enterprise, be substituted for 30 April 1973 in paragraphs 23 and 28 below. However, except as in paragraph 22, the permitted price increase may not include any element of retrospective recovery of costs incurred before the date on which the price increase takes effect.

22. A permitted price increase may include an element of recovery of cost increases first incurred between 30 April 1973 and the date of the permitted price increase provided that:—

- (i) the amount included in respect of such costs does not exceed what would be necessary to recover the costs over a period of 12 months beginning with the date of implementation of the permitted price increase;

- (ii) the costs were allowable cost increases under the provisions of the Code in force at the time they were incurred; and
- (iii) in the calculation of any subsequent price increase under the Code, the "selling price" referred to in paragraph 23(iii) should exclude any element which represents a recovery of costs under this paragraph.

Where the permitted base date is 30 September 1972, cost increases first incurred after that date may be taken into account in determining the permitted price increase, but retrospective recovery of such cost increases must be limited to costs incurred in the period between 30 April 1973 and the date of the price increase. A price increase which includes an element of recovery of costs under this paragraph may exceed the increase in total costs per unit by the amount necessary to permit the recovery of those costs.

#### **Calculation of Permitted Price Increase**

23. The maximum permitted price increase should be arrived at as follows:—

- (i) calculate the change in total costs per unit and allowable cost increases per unit (as reduced by the productivity deduction) between the base date and the date of the price increase; cost increases which have already been reflected in prices should be excluded;
- (ii) express allowable cost increases per unit as a percentage of total costs per unit at the base date;
- (iii) apply the resulting percentage to the selling price at the base date in order to establish the new permitted price level.

In (i), (ii) and (iii) above, "base date" means 30 April 1973, or at the option of the enterprise, the date of any subsequent price increase.

24. The calculation of the level of costs per unit referred to in paragraph 23(i) should be based on the levels of pay and other costs ruling at the base date and on the level of output over the most recent representative period completed by that date (eg the previous quarter) for which adequate records are available. Similarly the calculation of costs per unit at the date of the price increase may take account, in accordance with the normal practice of the enterprise, of increases in raw material prices and other allowable cost increases up to the date of the price increase and should reflect the output level achieved in the most recent representative period (eg the quarter preceding the date of the price increase).

25. The levels of unit costs calculated in this way will not necessarily be the same as the average figures recorded for the whole of the period chosen, eg if pay or other costs changed during the period. If output in the period was materially affected by abnormal factors such as holidays, an appropriate adjustment should be made. If this is impossible, the previous normal operating period should be chosen with appropriate adjustments to allow for changes in the level of pay or other costs.

26. Where price increases are being made not on a single product but on a range of related products (under paragraphs 42 or 43) the procedure

in paragraphs 23 to 25 still applies. But in this case the group of related products should be considered as a single product; the costs per unit can be expressed either as costs per unit of volume of output or if a volume measure is impracticable as costs per £ of sales value. Where the calculated permitted percentage price increase is not applied uniformly to the whole range of products, the weighted average percentage price increase made on the selling prices of the products within the group may not exceed this percentage.

*Transitional provision*

27. Where an increase in a price or charge was implemented while the Code set out in the Counter-Inflation (Price and Pay Code) Order 1973 was in force and was not permissible under that Code, the price or charge in question should be reduced to the level that would have been permitted under that Code, and this lower price should then be taken as the "selling price at the base date" in calculating any price increase permitted under paragraph 23 of this Code on account of subsequent cost increases.

**Allowable Cost increases**

28. Subject to the following paragraphs, a cost increase may be regarded as an allowable cost increase for the purpose of paragraph 19 if: —

- (i) it was first incurred after 30 April 1973; and
- (ii) it was incurred for one of the following: —
  - (a) labour;
  - (b) materials, components, consumable stores and supplies, fuel and power;
  - (c) rent of premises and rates;
  - (d) interest charges, as defined in paragraph 31, and depreciation, calculated in accordance with generally accepted accounting principles consistently applied by the enterprise concerned;
  - (e) certain bought-in services, that is: transport, hire of equipment, insurance, storage, postage, maintenance, telephone and engineering services not of a capital nature;
  - (f) commission processing and other sub-contracted operations on materials or components incorporated into the product; and
- (iii) it has not already been reflected in prices.

*Pay not consistent with the Code*

29. Cost increases arising from increases in pay (as defined in paragraph 112) after 6 November 1972 are allowable cost increases only to the extent that, as appropriate: —

- (i) they were consistent with the policies set out in the White Papers Cmnd. 5125 and Cmnd. 5205 (and do not contravene an order or notice under the Counter-Inflation (Temporary Provisions) Act 1972)(a); or

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(a) 1972 c.74.



- (ii) as regards the period after 1 April 1973, they were consistent with the provisions of the Code in force at the time of the pay increase (and do not contravene an order or notice under the Counter-Inflation Act 1973).

30. Examples of cost increases which are not allowable cost increases because they are inconsistent with the Code are:—

- (i) any part of a pay increase which exceeds the pay limit; or
- (ii) any part of increases in pay under settlements made at local or plant level which, when aggregated with increases under a national agreement, exceeds the pay limit for the group concerned; and
- (iii) any part of increases in earnings arising from piecework or other payment by results schemes which exceeds the pay limit, unless the increase was or is specifically exempted from the pay limit by Part II of the Code; and
- (iv) any part of increases in labour costs per unit attributable to payments under new efficiency or restructuring schemes which is inconsistent with the requirements of paragraph 171 of the Code.

#### *Interest charges*

31. Increases in interest charges payable by an enterprise are allowable cost increases, unless the charges or the increases in them:—

- (i) represent a distribution of profits rather than a true interest charge; or
- (ii) where they arise on loans between related undertakings, relate to loans which are not strictly required for the business or represent interest in excess of that which would be charged in a transaction at arm's length; or
- (iii) represent interest which would properly be regarded as capital expenditure in the period in which it is incurred.

#### *Productivity deduction*

32. In order to ensure that the benefits of increased productivity are passed on to the consumer, a deduction should be made from allowable cost increases. Enterprises are required to absorb 50 per cent of allowable cost increases arising from increases in labour costs, with the exclusions listed in paragraph 33, unless the share of labour costs as a whole in their total costs exceeds 35 per cent. In that case enterprises are required to absorb only an amount equal to the percentage of total costs which would apply if labour costs represented 35 per cent of total costs.

33. The deduction for productivity under paragraph 32 need not be applied to increases in:—

employers' national insurance contributions; training costs; the cost of improvements under paragraph 142 (equal pay), paragraph 155 (recognised terms and conditions), paragraph 156 (pensions) and paragraph 158 (redundancy and incapacity benefits).

*Safeguard to limit reduction of profit margins*

34. (i) Where the effect of one or more of the provisions of the Code listed in sub-paragraph (ii) below would be to reduce the net profit margin of the enterprise, as defined in paragraphs 60 and 61, by more than one-tenth below the level in the period before the base date used in calculating a permitted price increase under paragraphs 21-23, the enterprise may limit that reduction to one-tenth in calculating permitted price increases for the purposes of the Code.

(ii) The provisions referred to in sub-paragraph (i) are:—

- (a) paragraph 28(ii) which determines those cost increases which rank as allowable cost increases;
  - (b) paragraph 32 which prescribes the productivity deduction to be made from certain labour cost increases.
- (iii) The permitted price increase calculated under sub-paragraph (i)' may not exceed the increase in total costs per unit for the product or range of related products concerned.
- (iv) This paragraph does not apply where the profit margin reference level is, or is likely to be, exceeded; or where prices are being reduced (or price increases restricted) to eliminate the excess over profit margin reference levels in an earlier period.

*Allocation of costs to controlled prices*

35. Allocation of costs to particular controlled goods or services for the calculation of allowable cost increases or increases in total costs may be necessary where an enterprise:—

- (i) sells in both home and overseas markets; or
- (ii) makes sales at home, some of which are within and some outside the scope of the control; or
- (iii) makes sales of different products or groups of products which are within the control, and has to divide costs between them for the purposes of the Code.

Where such an enterprise:—

- (a) has made allocations which represent a fair division of costs in its circumstances, over part or all of the field; and
- (b) has done so on a consistent basis,

it should continue to use this basis for all calculations relevant to the Code. In other cases enterprises may make such allocations by dividing costs in proportion to the value of sales in each area, or on any other basis which represents good accounting practice, provided that it adheres to the chosen basis for all calculations relevant to the Code.

*Stocks*

36. In calculating the cost of current production or sales, enterprises may need to include an element for stocks of raw materials, of components or of finished goods, used for production or sales. When making such calculations in order to arrive at costs per unit of output and at any allowable cost increases, enterprises should adhere to the practice they have followed consistently for the treatment of such costs for pricing purposes.

*Transfer prices*

37. Where the Commission are satisfied that prices, either of purchases or of sales, which an enterprise proposes to regard as a basis for the calculation of allowable cost increases or of net profit margins, differ from what they would be if the goods or services had been transferred on an arm's length basis, they may substitute modified cost increases or profit margins which in their judgement fairly reflect what would be appropriate on that basis.

*Costs of sectors including small enterprises*

38. Where the Commission are satisfied that:—

- (i) significant reductions or increases in allowable costs have occurred or are about to occur in a sector of industry or commerce which includes a considerable number of small enterprises, especially those providing services; and
- (ii) the information available to them indicates that these changes in costs are likely to be of broadly the same order for a substantial number of such enterprises, in respect either of some or all of the goods or services which they supply,

the Commission, after consulting any body or persons which they regard as representative of enterprises affected and after taking into account information supplied by them, may calculate average allowable cost increases or reductions for the relevant goods or services. In the case of cost increases, these increases should then be taken as the allowable cost increases for the relevant goods or services; in the case of cost reductions, the Commission may specify reductions under paragraph 20 in the prices of the relevant goods or services which should then be made by all the enterprises concerned.

39. In calculating average allowable cost changes under paragraph 38 the Commission will take account of:—

- (i) all relevant information available to them on cost changes for the goods or services concerned, including information supplied by any trade association or other body which they consider is representative of the enterprises concerned; and
- (ii) any other relevant provisions of the Code.

40. The Commission will publish information about any average allowable cost changes which they have determined under paragraphs 38 and 39 together with an indication of any price changes which they regard as justified or required under the Code on the basis of those average allowable cost changes.

41. Where the allowable cost changes of a particular enterprise differ from those published by the Commission under paragraph 40, that enterprise may apply the normal provisions of the Code relating to allowable cost increases or price reductions. It will be the responsibility of the enterprise to satisfy the Commission if required that this was justified.

**Product Costs and Allowable Cost Increases***“ Single product ” enterprises*

42. Where an enterprise makes a single product or a single range of products the calculations required by the Code may be carried out by reference to the costs and prices of that enterprise as a whole.

*Multi-product enterprises : related products*

43. This paragraph applies to enterprises making a variety of products. Where:—

- (i) allowable cost increases arise on one or more of a range of related products; and
- (ii) a price increase in respect of them is permissible under the Code, the enterprise need not relate the price increase for individual products within the range closely to the cost increase for each product, provided
  - (a) it has been established practice to treat the range of products in this way; and
  - (b) the average increase in price, weighted by the value of sales in a recent period, will not exceed the sum of what the Code would permit on the products affected by the cost increases.

44. In cases not covered by paragraphs 42 and 43 the calculations required by the Code should be made by reference to individual products.

*Anticipation of cost increases*

45. Prices may not be increased in anticipation of cost increases, except as described in paragraphs 46 to 48. However:—

- (i) an enterprise may determine and announce a price increase consistent with the Code which takes account of future allowable cost increases which are already known as to both date and amount, provided that the price increase is not implemented before the allowable cost increases are incurred; and
- (ii) an enterprise required to pre-notify an intended price increase to the Commission may seek the agreement of the Commission to a price increase consistent with the Code which takes account of such known future cost increases, subject to the same proviso as in (i).

46. Where:—

- (i) a future allowable cost increase is already known, as to both date and amount; and
- (ii) it is proposed to quote a price for supply on demand which will not be increased for at least six months from the date on which it takes effect,

an enterprise may average the future allowable cost increase over the period of not less than six months for which it quotes the price in arriving at a price increase for that period, provided that:—

- (a) the total amount raised will not be increased by the averaging; and
- (b) the averaging is in accordance with a well-established practice in the trade concerned.

47. Paragraph 46(i) may be read as applying to an estimated future cost increase if:—

- (i) it relates to a raw material which fluctuates frequently and unpredictably in price; and
- (ii) the use of estimates of such cost increases is a well-established practice of the trade; and
- (iii) in framing the estimates the enterprise adheres to the methods it has consistently used for the treatment of such costs for pricing purposes.

The other conditions of paragraph 46 apply but with references to three months substituted for the references to six months.

48. This paragraph applies to tenders to the extent that they are at fixed prices. In framing such tenders, those concerned should have regard to the Code, but where tenders are the custom of the trade

- (i) competitive tenders may provide for estimated future cost increases,
- (ii) non-competitive tenders may provide for estimated future cost increases if the contract is to run for at least six months from the date on which work is to begin.

#### *Escalation and variation of price clauses*

49. Price increases made under an escalation or variation of price clause may reflect cost increases for items listed in paragraph 28(ii), provided that this is permissible under the terms of the clause; but the productivity deduction specified in paragraph 32 should be applied to the element relating to labour cost increases, and no price increase should be made in respect of a labour cost increase not consistent with the Code. But if the application of the productivity deduction causes or increases a loss on a particular contract, taken as a whole, the terms of the escalation or variation of price clauses may be applied to the extent necessary to avoid the loss, or the increase in it. In addition to new contracts, this paragraph applies to existing contracts and to increases in prices under those contracts, to the extent that they relate to cost increases after 6 November 1972.

#### *Prime cost and cost reimbursement contracts*

50. Where a claim for payment by a contractor under any form of prime cost or cost reimbursement arrangement includes an element for increased labour cost levels since the start of the contract or since 6 November 1972,

whichever is later, the claim for this element should be made and settled in accordance with the following provisions:—

- (i) the increases in labour cost levels must have been consistent with the Code;
- (ii) the productivity deduction specified in paragraph 32 must be applied.

But if the application of the productivity deduction causes or increases a loss on a particular contract, taken as a whole, the terms of the contract may be applied to the extent necessary to avoid the loss, or the increase in it. This paragraph applies to new and existing contracts.

51. Paragraph 50 does not apply where the terms of a prime cost or cost reimbursement arrangement ensure that the benefit of economies in the use of labour pass directly to the client. For non-competitive contracts of this type placed after 1 November 1973 the contractor may not quote a rate of fee which is higher than that which he has charged since 30 April 1973 for the same service or a similar one.

52. Where the application of the productivity deduction under paragraph 49 or 50 would reduce the net profit margin of the unit for profit margin control as defined in paragraphs 60 and 61 by more than one-tenth below the level in the representative period, the productivity deduction may be abated to the extent necessary to limit that reduction to one-tenth. The "representative period" means the most recent representative period completed by 30 April 1973 for which adequate records are available. This paragraph does not apply where the profit margin reference level has been or is likely to be exceeded; or where prices are being reduced (or price increases restricted) to eliminate the excess over profit margin reference levels in an earlier period.

#### *Discounts and rebates*

53. The withdrawal or reduction of a discount or rebate, including a discount or rebate to a particular customer, is equivalent for the purposes of the Code to an increase in the price. This does not apply, however, to a discount or rebate directly related to the promotion of one or more products or services for a limited period or in a limited area.

#### *Quantity or quality change and new products*

54. A change in the quantity or quality of goods is equivalent for the purposes of the Code to a change in the price. Quality change in goods or services, quantity change in sales units, or artificial creation of new products should not be used as a means of avoiding the requirements of the Code. Where the Commission form the opinion that this has been done, they may seek price reductions, or disallow or reduce price increases.

55. However, where a new product is marketed on an experimental and restricted basis for a period of not more than twelve months, the price charged by the manufacturer need not be treated for the purposes of the Code as establishing a price for the product.

### *Losses*

56. This paragraph applies to enterprises (as defined in paragraph 14) which are making a loss, or are under the Code at risk of doing so:—

- (i) where an enterprise is making a loss, it may increase prices to cover its costs;
- (ii) the provisions of Part I of this Code need not be applied to the extent that they would cause the enterprise to operate at a loss, except that in either case, price increases may not be made under this paragraph if they cause the profit margin reference level referred to in paragraphs 57-69 to be exceeded.

### **Prices and Profit Margins**

57. Prices should be determined so as to secure that net profit margins, as defined in paragraph 58, do not exceed the average level of the best two of the last five years of account of the unit to which net profit margin control applies ending not later than 30 April 1973 (the “reference level”).

58. “Net profit margin” means the margin of net profit expressed as a percentage of sales or turnover. “Net profit” means the net profit, determined in accordance with generally accepted accounting principles consistently applied by the enterprise concerned, which arises from trading operations within the control after taking into account all expenses of conducting and financing them, including depreciation and interest as defined in paragraphs 28 and 31, but before deducting corporation tax or income tax.

### *Action where profit margin is likely to be exceeded*

59. Where:—

- (i) the reference level has been exceeded; or
- (ii) in the light of interim accounts or other evidence, is likely to be exceeded,

abatements in allowable cost increases or price reductions should be made: provided that in either case account has been taken of seasonal and other distorting factors. The abatements or reductions should be sufficient to eliminate the actual or expected excess over the reference level as soon as reasonably possible, and to offset any excess which has already arisen in a period subsequent to 30 April 1973. Reference level means for any period between 30 April and 31 October 1973 the reference level in the Counter-Inflation (Price and Pay Code) Order 1973; and for any subsequent period as defined in this Order.

### *Unit for profit margins*

60. In calculating the net profit margin under paragraph 57, the unit for profit margin control shall be either:—

- (i) the enterprise as a whole; or
- (ii) an activity treated separately under paragraph 17; or
- (iii) a unit of an enterprise, being a separate constituent company or subdivision, provided that the Commission are satisfied that:

- (a) the unit constituted, before 30 April 1973, and still constitutes, a separate unit immediately below the level of the main Board of the enterprise as a whole for management, operational and accounting purposes. In applying the test in this sub-paragraph the Commission may disregard an intermediate non-trading company; and
- (b) the accounts of all such units, if combined with one another, can be reconciled with those of the enterprise as a whole; and are not materially distorted by transactions conducted otherwise than on arm's length terms.

The same unit should then be adhered to for all the purposes of the Code to which the net profit margin is relevant.

61. For the purpose of paragraph 60, where the enterprise is a company, "the enterprise as a whole" means the company or (where the company is a member of a group) all the companies in the group, but includes only members of the group carrying on business in the United Kingdom; and in this paragraph:—

- (i) "company" includes any body corporate; and
- (ii) "group" means the person (including a company) having control of a company together with all companies directly or indirectly controlled by him.

#### *Allocation of profits to controlled prices*

62. Allocation of profits between prices within the control and those which are not may be necessary for the calculation of net profit margins. The requirements of paragraph 35 apply to such allocations of profits as they do to allocations of costs.

#### *Profit margins and indirect taxes*

63. In making comparisons between net profit margins as a percentage of sales and the reference level, due account must be taken of the effect on margins of changes in indirect tax on goods and services sold, so that the comparison is not materially distorted. The comparison with earlier years should be made on a basis which excludes purchase tax from sales in the period up to the end of March 1973 and excludes VAT from 1 April 1973 onwards. Where excise duties have been included in the sales figures, these duties should be included throughout, adjusted as necessary to take account of the partial replacement of excise duties by VAT.

64. Where an enterprise does not already have accounts showing separately the purchase tax element in the turnover of previous years, or which permit the precise calculation of the amount of excise duty abatement from records of duty paid, such elements should be estimated on the basis of the best available information. Where total purchase tax can be ascertained from purchase invoices this total can be deducted from tax inclusive sales. Where such purchase invoices are not available, the purchase tax element may be estimated by applying to the value of purchases of goods charged to different rates of purchase tax appropriate factors derived from those rates.



*Modified base period for profit margin calculation*

65. Where an enterprise has traded for less than five complete years of account, or has traded at a loss in one or more of the last five years, the reference level for paragraph 57 may be calculated as follows:—

- (i) if there have been four years of trading, the average of the best two; if three or two years, the best year;
- (ii) if there have been less than two years of trading the limitation on profit margins will not apply;
- (iii) any year in which an enterprise made a loss may be treated as equivalent to a year of no trading and sub-paragraphs (i) and (ii) may be applied accordingly.

66. For a new enterprise formed from a reconstruction or amalgamation of existing enterprises the reference level will be calculated as defined in paragraph 57 by using the aggregate net trading profits of the constituent enterprises expressed as a percentage of their aggregate sales. The same principles may be applied to an amalgamation of partnerships.

67. Where the Commission are satisfied that the reference level of an enterprise, calculated as in paragraphs 57-61, 65, 66, 68 or 69, requires modification, for example because of

- (i) a substantial reconstruction of the enterprise during the base period; or
- (ii) a substantial change in the character of the business; or
- (iii) a substantial change in the ratio between the value of net fixed assets (other than land and buildings) and the value of sales, arising from investment which has enabled the enterprise either
  - (a) to undertake an earlier stage of production of goods or services; or
  - (b) to achieve substantial savings in labour costs per unit of output,

they may permit some departure from that reference level. In deciding whether, and to what extent, to permit such a departure the Commission should have regard, as appropriate, to the principles referred to in paragraph 66 and, for example, to the profit history of the main parts of the business which now make up the enterprise; the profits of any substantial parts of the business acquired or added to the enterprise during the base period, excluding any such parts which have been disposed of or discontinued; the change in the relative importance of different elements of the business; the extent of the change in the ratio between the value of net fixed assets and sales referred to in sub-paragraph (iii).

*Relief for low profits*

68. Where the Commission are satisfied that the net profit margin calculated as described in paragraphs 57-61, 65 or 66 represents a return on capital of less than 8 per cent, the restrictions on price increases and on gross percentage and net profit margins shall not be applied so as to restrict the return below 8 per cent. In such cases the net profit margin which would be needed to produce a return of 8 per cent on capital may be treated as the reference level. Where in the earlier of the two best years referred to in

paragraph 57 the net profit margin represented a return on capital of less than 8 per cent, a figure equivalent to an 8 per cent rate of return may be used for that year in calculating the reference level. "Capital" means the net assets employed, determined in accordance with generally accepted accounting principles consistently applied by the enterprise concerned, excluding any part of them which is represented by borrowings the interest on which is deducted in arriving at net profit as defined in paragraph 58.

69. At the option of the enterprise paragraph 68 may be read as referring to a net profit margin of  $1\frac{1}{2}$  per cent on turnover rather than an 8 per cent return on capital.

#### *Investment*

70. Where the Commission are satisfied that in a particular case it is necessary in order to encourage or ensure investment to modify the application of the provisions relating to allowable cost increases or to increases in total costs or to profit margins, they may permit some modification of any of those provisions. In deciding whether, and to what extent, to permit such a departure the Commission should have regard to the following criteria:—

- (i) whether there is satisfactory evidence that if this is done expenditure on the investment will begin within 12 months of the date of the price being increased or the profit margin limit being modified; and
- (ii) whether
  - (a) the application of the limits would deprive the enterprise of funds essential for investment which it could not reasonably be expected, or would not be able, to raise in some other way, or would reduce the prospective rate of return on the investment to a level which would deter the enterprise from undertaking it; or
  - (b) there is satisfactory evidence that the enterprise had absorbed cost increases to an exceptional degree as a result of voluntary price restraint and in consequence had significantly reduced profit margins in the 12 months ending 30 September 1972.

71. Where the Commission are satisfied that:—

- (i) an enterprise as defined in paragraphs 60 and 61 has net tangible fixed assets, excluding land and buildings, per employee which exceed £2,000 per head; and
- (ii) has a plant or group of plants and facilities, employed in the manufacture of a group of related products, which had a fixed asset value at original cost of at least £10m; and
- (iii) that the capacity of this plant or group of plants was seriously under-used over the most recent representative period before 30 September 1972 or before the base date, as defined in paragraphs 21 and 23; and
- (iv) that the rate of utilisation has since risen by  $12\frac{1}{2}$  percentage points;

the Commission may, on application from the enterprise, modify the calculation of allowable and total costs per unit at the base date by substituting the figures for unit costs that, in the Commission's view, would have applied

at that time if the plant had been operating at the average rate of capacity use which applied over the most recent representative period before the date of the application. Where, however, an enterprise has already received approval under this paragraph for a price increase after 1 November 1973, the date of that price increase shall be substituted for 30 September 1972 or the base date in sub-paragraph (iii).

### **Particular Sectors**

72. The paragraphs which follow deal with the application of this Part of the Code to certain important sectors. Unless there is express provision to the contrary in those paragraphs, however, paragraphs 3 to 71 must be taken as applying to all enterprises.

### **Manufacturing and Mining**

73. Paragraphs 3 to 71 above apply in their entirety.

### **Distribution**

74. In the determination of prices for sales within the United Kingdom, wholesalers, retailers and other enterprises engaged in distribution should ensure that their gross percentage margins do not exceed the level of the gross percentage margin in either

(i) the last complete account year of the enterprise ending on or before 30 April 1973; or

(ii) a 12-month period ending between 30 October 1972 and 30 April 1973 for which separate accounts are or can be made available,

less in either case an appropriate reduction for the abolition of SET. Where an enterprise has not traded long enough to establish a gross percentage margin under (i) or (ii), the margin for a complete quarter's trading before 30 April 1973 will apply.

75. For all the purposes of the Code "gross percentage margin" means the aggregate difference between the cost to the distributor of all the goods he sells in the home market in a period and the value of his sales of those goods in that period, expressed as a percentage of the sales value. The difference should be calculated according to the normal accounting practice consistently applied by the enterprise. In arriving at sales and costs of sales, indirect taxes should be treated on the same basis as for calculating net profit margins in paragraph 63.

76. The provisions of the Code relating to allowable cost increases do not apply to distribution.

### *Distributors' stocks*

77. In most cases prices determined by distributive enterprises will have to take account of the cost of goods used from stock for sale. Such enterprises should adhere to the practice they have followed consistently for pricing purposes in arriving at such costs and at the relevant gross percentage margins.

*Distributors making a loss*

78. Where an enterprise engaged in distribution is making a loss, it may increase prices to cover its costs, notwithstanding the limitation on gross percentage margins. Price increases may not be made under this paragraph if they cause the profit margin reference level referred to in paragraphs 57 to 69 to be exceeded.

*Action where gross or net percentage margins are likely to be exceeded*

79. Where:—

- (i) a distributor's net profit margin or gross percentage margin has exceeded the level allowed under this Code; or
- (ii) where in the light of interim accounts or other evidence, that level is likely to be exceeded,

price reductions should be made; provided that in either case account has been taken of seasonal and other distorting factors. The reduction should be sufficient to eliminate the actual or expected excess over the permitted level as soon as reasonably possible, and to offset any excess which has already arisen in a period subsequent to 30 April 1973. Reference level means for any period between 30 April and 30 October 1973 the reference level in the Counter-Inflation (Price and Pay Code) Order 1973; and for any subsequent period as defined in this Order.

80. Where in the judgment of the Commission the costs of any goods to wholesalers or retailers rise substantially, the Commission shall:—

- (i) consult any body or person whom they regard as representative of enterprises affected and take into account all relevant information supplied by them;
- (ii) having regard to the situation of the product group as a whole and to the volume of trade, consider whether the maintenance of existing gross percentage margins would disproportionately increase the net profit margin on those goods; and whether the trade practice affecting the margins on the products in question therefore requires modification; and
- (iii) after consultation with the bodies or persons referred to in sub-paragraph (i), inform them of any reduction in margins which they consider appropriate and notify this to any enterprise.

When a reduction in gross percentage margin has been notified, paragraph 74 in its application to that enterprise shall be modified accordingly.

**Agriculture**

81. Part I of the Code does not apply to agricultural enterprises engaged in the production and sale of unprocessed agricultural produce. Where such enterprises are engaged in manufacturing or processing, however, their prices are controlled by reference to allowable cost increases and net profit margins. Where they are engaged in distribution, their prices are controlled by reference to gross percentage margins and net profit margins.

**Nationalised Industries**

82. Paragraphs 83 to 86 apply to the following nationalised industries:—

National Coal Board  
Electricity Council  
Area Electricity Boards  
Central Electricity Generating Board  
North of Scotland Hydro-Electric Board  
South of Scotland Electricity Board  
Northern Ireland Electricity Service  
British Gas Corporation  
British Steel Corporation  
Post Office  
British Airways Board  
British Airports Authority  
British Railways Board  
British Transport Docks Board  
British Waterways Board

83. Part I of the Code applies to the nationalised industries listed in paragraph 82, according to the nature of the business of the industry, as it applies to private sector undertakings. However:—

- (i) when in deficit on controlled activities a nationalised industry may increase prices by allowable cost increases, calculated without any deduction under paragraph 32, and by any further amount necessary to avoid an increase in its deficit on those activities in the accounting year in question compared with the level in 1972-73 or, where it is in accordance with the normal accounting practice of the industry, in 1972;
- (ii) as with a private sector enterprise, where an industry is not in deficit, the provisions of Part I of this Code need not be applied to the extent that they would cause the industry to operate at a loss;
- (iii) a nationalised industry may apply sub-paragraphs (i) or (ii) separately to a separate activity as defined in paragraph 17 or to a separate unit as defined in paragraph 60 (iii) even if the industry as a whole is not in deficit;
- (iv) in (i) and (ii) above, a nationalised industry is in deficit if it incurred a deficit on revenue account in the previous accounting year, after providing for interest and depreciation calculated in accordance with the accounting principles consistently applied by the industry concerned;
- (v) paragraphs 34, 56 and 68-71 will not apply to a nationalised industry.

84. If the operation of a system of multi-part tariffs in the gas and electricity supply industries reduces average revenue per unit the following provisions apply. Where since the base date the average revenue per unit has fallen faster than average costs per unit, tariffs may be increased by the amount necessary to restore the cash margin per unit of output to the level

which applied at the base date. Where since the base date the average revenue per unit has fallen but average costs per unit have risen, the permissible increase in tariffs may include an element sufficient to restore average revenue per unit to the base date level in addition to an element calculated on the basis of allowable cost increases. The calculation of permitted tariff increases for these industries should have regard to the likely demand and consumption in the light of their statutory obligations to meet such demand.

85. Where the responsible Minister notifies the Commission that a price increase resulting from the application of paragraph 83 would have an unacceptable effect on the general level of prices, the Commission will limit the permitted price increase to the amount specified as acceptable by the Minister, but not so as to reduce the increase below what is needed to reflect the allowable cost increases of the industry and to take account, where it has effect, of the provisions of paragraph 84.

86. The application of the Code is subject to paragraph 87 in the case of the National Coal Board and the British Steel Corporation. In the case of the Post Office and those industries concerned with air and sea transport, it is subject to the exclusion from control under paragraph 6 of charges for international traffic. The prices of subsidiary companies of nationalised industries, including subsidiaries of the National Bus Company, National Freight Corporation and the Scottish Transport Group, are governed by paragraph 89(ii). The prices charged for electricity by Area Electricity Boards and the Scottish Boards will be subject to the provisions of the Code applying to manufacturers.

#### *Coal and steel*

87. Prices charged by producers for coal, coal-based solid fuels, and most iron and steel products are outside the scope of the control by virtue of paragraph 6(ii). They are subject to international obligations through United Kingdom membership of the European Coal and Steel Community. Prices of non-ECSC iron and steel products are controlled like those of other manufactured products. Enterprises which produce both ECSC and non-ECSC iron and steel products will be subject to price control on the latter only. Prices of coal merchants and iron and steel merchants in the United Kingdom will be subject to the control on gross percentage margins and net profit margins applied to wholesaling and retailing enterprises.

#### *Other public sector trading enterprises*

88. The Commission will apply to proposals for price increases which are referred to them by Government Departments engaged in substantial trading operations the same principles as to proposals by the nationalised industries.

89. The Code applies to the prices of the following enterprises, according to the nature of the business of the undertaking, as it applies to the prices of private sector enterprises:—

- (i) trading services of local authorities, local authority joint boards, public utility undertakings and other similar public sector undertakings (not being a nationalised industry listed in paragraph 82); and
- (ii) companies registered under the Companies Acts which are wholly or partly owned by Her Majesty's Government or by a nationalised industry.

#### *Water undertakings*

90. Statutory water undertakers, whether public or private, are subject to limitations on deficits, on surpluses or profits, on profit distributions and on borrowing. They are also required by statute to provide an adequate supply of water. Their water rates and charges are already controlled to a large extent through these limitations. They will be required to comply with the principles of the Code and in particular with the paragraphs relating to allowable cost increases, but not so as to conflict with their statutory obligations.

#### **Services**

91. In general, paragraphs 3 to 70 of the Code apply to the prices of service enterprises as they apply to those of manufacturers, so that the system of allowable cost increases and the limitation on net profit margins as a percentage of sales or turnover apply to them. There will be an offset to allowable cost increases as a result of the abolition of Selective Employment Tax for service enterprises where this has hitherto been paid without refund. Paragraphs 38 to 40 permit the Commission to calculate average allowable cost changes for certain small service enterprises where the circumstances are appropriate. Paragraph 69 would permit services enterprises with low profits to calculate their reference levels for the limit on net profit margins by reference either to turnover or capital employed. The following paragraphs deal with the application of the Code to some particular service sectors, and explain any modifications of the general principles which apply to them.

#### *Banks, finance houses and similar enterprises*

92. Most banks, finance houses and similar financial enterprises are engaged partly in business for which the charge is a rate of interest and partly in business for which the charge is of a different nature. Interest charges are not within the control. The other charges of these enterprises are subject to control. It will therefore be necessary to allocate costs and profits between the two classes of business for the purpose of the control on non-interest charges. Paragraph 35 applies.

93. For the purposes of the Code the enterprises described in paragraph 92 may treat as goods and services exported:—

- (i) transactions in sterling with any person or body corporate resident outside the United Kingdom; and
- (ii) dealings in foreign currencies.

94. The provisions of the Code relating to allowable cost increases and to the limitation on net profit margins, defined in the case of these enterprises as in paragraphs 96 and 97, apply to their non-interest charges. These include commissions, fees and all similar charges. Where *ad valorem* rates are charged and these rates are charged generally, they must be treated as maxima. Enterprises will, however, be free to adjust their rates to match the credit status of a client provided such adjustments are in accordance with normal practice in such cases. In calculating charges these enterprises should take fully into account all factors including customers' balances which enter the costing of the class of transaction for which the charge is made. They should treat changes in those factors as the basis for increases or reductions in the charges in accordance with the Code.

95. The provisions of the Code will apply in full to charges in hire purchase, conditional sale and plant and machinery leasing agreements. Changes in the monthly Finance Houses Base Rate may be taken as the measure of increases or reductions in interest costs for the calculation of allowable cost increases, provided that rate is used consistently for all the purposes of the Code.

96. For the purposes of paragraph 57 "net profit margin" means:—

- (i) in the case of enterprises undertaking hire purchase, conditional sale or plant and machinery leasing contracts, where either the greater part of the business of the enterprise consists of such contracts, or separate accounts can be produced for such contracts, net income from charges for this business less associated costs, including overheads, expressed as a proportion of average resources employed;
- (ii) in the case of all other enterprises of the kind described in paragraph 92 net income from charges (that is, gross income less costs, including associated overheads) expressed as a percentage of gross income (that is, total income from the transactions concerned).

97. In comparing net profit margins, as defined in paragraph 96, with the reference level, account should be taken of the total profitability of the non-interest business of the enterprise concerned in determining the permitted level of charges.

#### *Construction*

98. In determining prices for construction contracts enterprises should have regard to the Code as it applies to manufacturing enterprises. Of particular relevance to construction are paragraph 48, which applies to tenders for construction work to the extent that they are at fixed prices, and paragraphs 49 to 52, which apply to variation of price clauses, prime cost and cost reimbursement arrangements.

#### *Transport*

99. The Code applies to transport undertakings as it does to other service enterprises. Charges for international freight and passenger traffic are outside the control under paragraph 6(vi). Charges of nationalised



transport undertakings, passenger transport authorities, local authority transport undertakings and transport companies owned by nationalised industries and their subsidiaries are governed by paragraphs 82-86 and 89.

100. Charges of private road haulage undertakings are subject to the provisions relating to allowable cost increases and to the limitations on net profit margins.

#### *Vehicle sales and services*

101. Charges for repair, maintenance and servicing of vehicles are subject to the provisions relating to allowable cost increases and to the limitation on net profit margins. The prices of vehicles sold by distributors, whether new or second-hand, are subject to the limitations on gross percentage margins and on net profit margins. Paragraph 17 applies to enterprises which both sell and maintain vehicles.

#### *Hotels and catering enterprises*

102. What is said in paragraph 91 applies to these enterprises also, in respect both of charges for food and drink and for accommodation.

#### *Professional or other services*

103. Fees and charges for professional or other services by firms or by individuals who are self-employed are governed as prices by Part I. In general, what is said in paragraph 91 applies to them. The pay of professional staff who are employees is however governed by Part II, as is the remuneration from public funds of doctors and dentists.

104. Where scales or rates of charges of general application, whether calculated per item, at an hourly rate or *ad valorem*, are in use in a profession under instructions or advice issued by a professional organisation, those scales or rates must be treated as maxima and may not be increased without the agreement of the Commission. Where rates above scale have normally been agreed and have become normal charges, such rates need not be reduced but the margin by which such rates exceed the scale may not be increased. The Commission will apply the provisions relating to allowable cost increases to increases in scales or rates. Those provisions will also apply to increases in fees or charges calculated on a time basis, except that the productivity deduction in paragraph 32 need not be applied where the fee or charge reflects only the labour cost of any employees' time.

105. Where there are no scales or rates of general application, the rates or scales charged for a professional service may not be increased except to reflect increases in allowable costs. Increases in labour costs under paragraph 28(ii)(a) may not include any element in respect of proprietors' or partners', as distinct from employees', time.

106. The limitation on net profit margins will apply to profits of firms or individuals providing professional or other services irrespective of the method by which fees are determined. Where the number of partners in a professional practice has changed as a result of the substitution of a partner for an employee, or of an employee for a partner, the reference

level may be recalculated by reference to the changed number of partners. Paragraph 66 applies to amalgamations of partnerships. In applying the provisions relating to allowable cost increases to scales or rates of charges, the Commission will have regard to profit margins in the profession generally and will apply paragraphs 34, 59 and 68-69 as necessary.

*Non-profit-making organisations*

107. Subscriptions charged by organisations which:

- (i) exist for religious, charitable, educational, representational or recreational purposes; and
- (ii) are non-profit-making; and
- (iii) do not carry on a trade or business as their main activity, will not be controlled.

108. The Code will not apply to prices charged by an organisation satisfying the tests in paragraph 107, or by any properly authorised person acting on behalf of that organisation, if they are charged in order to raise funds for the purposes of the organisation, and involve no substantial or continuing competition with trading enterprises.

109. Except where they are outside the control under paragraph 108, prices charged in any trading activity carried on by an organisation which meets the requirements of paragraph 107 are governed by the Code, unless the customers of the trading activity are confined to members of the organisation.

## **Part II—Pay**

### **General Principles**

110. The general principles relating to pay are:—
- (i) to limit the rate of increase in pay in money terms to a level more in line with the growth of national output, so as progressively to reduce the rate of cost and price inflation and improve the prospects of sustained faster growth in real earnings;
  - (ii) to apply the limit fairly, irrespective of the form of any increase or the method of determining it, while providing for the remedying of anomalies;
  - (iii) to facilitate an improvement in the relative position of the low paid;
  - (iv) to leave to those who normally determine pay decisions on the amount, form and distribution of increases within the limit;
  - (v) to encourage the better use of productive resources.

### **Field of Application**

111. Part II of the Code applies to:—
- (i) all pay including wages and salaries at whatever level, allowances, payments by results, payments in kind, fringe benefits and lump sums;
  - (ii) all methods of determining pay whether at national, local, plant or any other level; and whether determined by collective bargaining, by arbitration, by statutory wage fixing bodies, on an individual basis, or by other means; and
  - (iii) all types of employment (except self-employment covered in Part I); and to both full-time and part-time employees in whatever size of undertaking.

All those concerned with the determination of pay should have regard to the Code.

112. Throughout the Code “pay” means remuneration (except self-employment incomes covered in Part I), including other terms and conditions of employment.

113. References throughout the Code to “settlement” include references to the determination of pay by any method.

114. Where the Code refers to a group, the group will normally be the same as that used for the purpose of determining pay in the preceding 12 months. It will, however, remain open to those concerned to vary the composition of their groups. Where pay is fixed on an individual basis, the Code applies to the individual as to the group.

### **Intervals between Increases**

115. No group may receive an increase in pay under a settlement made after 6 November 1972 less than 12 months after the group last received a principal increase.

116. Paragraph 115 does not apply where:—

- (i) an earlier date for such an increase was specified (other than by reference to changes in indices or rates of pay for other groups) in a previous settlement made before 6 November 1972; or
- (ii) the last increase was deferred as a result of the standstill under the White Paper (Cmnd. 5125), in which case the 12 months may count from the date from which the last increase would have operated but for the standstill;
- (iii) the increase does not count against the pay limit or is covered by paragraph 139 (flexibility margin). (Paragraphs 134 (premium payments), 140 (flexibility margin), 172 (new efficiency payments schemes), and 179 (certain anomalies) contain special rules about timing in these cases);
- (iv) the increase supplements, consistently with this Code, a Wages Council settlement coming into operation on or after 7 November 1973 but reached before that date.

117. Pay increases which consist solely of one or more improvements of the kind described in paragraph 116 (iii) and (iv) are not principal increases for the purpose of paragraph 115.

### **The Pay Limit**

118. The pay limit for a group represents the maximum amount by which the average pay bill per head of the group may be increased in a 12-month period. This maximum amount is either 7 per cent. of the average pay bill per head of the group for the preceding 12-month period or £2.25 per week per head. Negotiators and others concerned with pay determination may choose which of these limits to apply, but whichever limit is chosen will be applied to the whole of the group.

119. A precise method of calculating the pay limit of 7 per cent. is set out in paragraph 123. If insufficient information is available for this, the best available alternative method should be used. Those concerned will be responsible for satisfying the Pay Board, if required, that the method used is the best available. The method of calculating the pay limit of £2.25 per head is set out in paragraph 125.

120. Subject to the individual limit in paragraph 138, it will be for negotiators and others concerned with pay determination to decide on the amount and distribution of increases within the pay limit, and on the division between increases in wages or salaries and improvements in other conditions of service. They should, however, have full regard to the objective of improving the relative position of the low paid.

121. The pay limit applies to the 12 months following the first increase which counts against it.

122. Subject only to the exceptions specified in this Code, the pay limit applies to the total of all pay increases for the group including improvements in terms and conditions of employment other than wages and salaries in respect of the 12-month period in question, irrespective of whether they are

paid during that period or at a later date. However, increases in employers' contributions in respect of their employees for national insurance, selective employment tax, pensions schemes and redundancy payment schemes and (subject to paragraphs 132 and 133) the cost of overtime hours actually worked will not count against the pay limit.

*Calculation of the pay limit*

123. A precise calculation of the pay limit of 7 per cent. should be made as follows:

- (i) determine under paragraph 114 the group to be covered by the settlement;
- (ii) ascertain the total pay bill (including all forms of pay as defined in paragraph 112) for that group over the 12 months preceding the operative date. Where the operative date of a principal increase was deferred by the standstill, the average pay bill over the previous 12 months may be calculated as if the increase had been paid from their normal operative date;
- (iii) exclude payments for non-contractual overtime working, and employers' contributions in respect of their employees for pensions and redundancy payment schemes, national insurance and selective employment tax; and adjust to offset the effect of absences from work due to absenteeism, sickness, short time working or stop-pages from any other cause;
- (iv) divide by the average number of workers in the group over the 12 months preceding the operative date. Part time workers should be counted according to the proportion which their hours bear to the standard hours of the group, as defined in paragraph 133.

This gives the average pay bill per head over the previous year, less overtime. Next:

- (v) take 7 per cent. of that and divide by 52 for a weekly basis or 12 for a monthly basis.

This gives the maximum increase in the weekly or monthly pay bill per head allowable within the pay limit for the group for the next 12 months.

124. It may not always be necessary to carry out this calculation in full. For example:

- (i) where rates of pay are equal, or nearly equal, to earnings (excluding overtime), it may be convenient to calculate the pay limit by adding 7 per cent. to rates. The cost of any other improvements in pay which count against the pay limit would then need to be calculated separately and the new rate reduced commensurately;
- (ii) in other cases it may be possible to base the calculation on a typical sample period of eg one month or one quarter or on typical sample periods for different parts of the year.

125. Where the alternative pay limit of £2.25 per head is chosen the maximum increase in the weekly pay bill allowable within the pay limit for the group is calculated simply by multiplying £2.25 by the number currently in the group. Part time workers should be counted according to the proportion which their hours bear to the standard hours of the group as defined in paragraph 133.

126. Where a group :

- (i) has the same pay structure as one other clearly identified group; and
- (ii) before 6 November 1972 has regularly received by automatic application and without further negotiation, the same absolute or percentage increase in rates of pay as that group,

it may receive (in place of any increase which counts against the pay limit in its case) the same absolute or percentage increase in rates of pay as that other group receives within its pay limit under the provisions of this Code.

#### **National, Local and Plant Increases**

127. Where settlements or pay determinations for a particular group are concluded at more than one level (for example a settlement at national or industry level is supplemented by settlements at local or plant level) the pay limit will apply for the 12 months beginning with the first increase which counts against it. The maximum increase in the weekly or monthly pay bill per head allowable within the pay limit for the group for that 12 months should be as in paragraph 123 or 125. Paragraph 115 applies separately to each level of settlement.

128. When local or plant negotiations take place before national negotiations the recommended method of achieving the purpose of paragraph 127 is by including in the local or plant settlements an off-setting provision precluding employers from making subsequent payments as a result of a national agreement which would result in a total increase in the pay of the group concerned in excess of the pay limit. Those undertaking national negotiations should have regard to the requirements that any increase settled nationally if not offset as above should be taken into account in any subsequent local or plant negotiation so as to ensure that the maximum increase in the weekly or monthly pay bill per head of the group concerned does not exceed the pay limit for that group.

#### **Payments for Periods Before 7 November 1973**

129. Any increase may be paid which could, consistently with the requirements of the Counter-Inflation (Price and Pay Code) Order 1973, be paid with effect from a date before 7 November 1973.

130. No payment should be made after 6 November 1973 in respect of periods before that date if the effect would be to circumvent the requirements of the White Papers Cmnd. 5125 (A Programme for Controlling Inflation: The First Stage), Cmnd. 5205 (The Programme for Controlling Inflation: The Second Stage), and The Counter-Inflation (Price and Pay Code) Order 1973. If any group receives after 6 November 1973 an increase in respect of an earlier period which if paid before then would have been inconsistent with these requirements, such an increase will count against the pay limit to the extent that it has not already been offset against the pay limit applying in the period before 7 November 1973, save as specifically provided for elsewhere in this Code.

### Occasional Work

131. Where an employer employs persons who are not otherwise in his employment for the purpose of work which is occasional in nature (in that no one individual is engaged on such work for more than the equivalent of 30 days per year) the rate of pay for such work may be increased outside the pay limit by up to 7 per cent. applied as an annual rate to the period since the rate was last increased, up to a maximum of 3 years.

### Overtime, Shift, Night, Rest Day and Weekend Working

132. All payments for work done in normal working hours within the meaning of Schedule 2 to the Contracts of Employment Act 1972(a) (which broadly includes any hours paid at overtime rates which the employee is required to work under the terms of his contract) should be included in the pay bill. The effect on such payments of any improvement in pay will count against the pay limit, save as provided in paragraphs 134 to 137.

133. If there is any widening of the percentage differential between the rate of pay for work done outside normal working hours (for example overtime, rest day or weekend working) and the effective rate of pay for standard hours (for example, if the overtime multiplier is increased from time-and-a-third to time-and-a-half), the additional cost will count against the pay limit, save as provided in paragraphs 134 to 137 below. For this purpose standard working hours are those recognised either by collective agreement, wages regulation order or custom and practice as being those beyond which overtime payments are payable. In calculating the cost it should be assumed that the amount of such working in the 12 months from the operative date of the settlement will be at least as much as in the preceding 12 months.

134. Premium rates of payment may be introduced or increased outside the pay limit in the circumstances set out in paragraphs 135 or 136 provided that the payment or increase:

- (i) is paid with effect from the date of a principal increase after 6 November 1973 for the group concerned;
- (ii) is not added to basic rates on which overtime payments are calculated;
- (iii) is not paid where the appropriate basic time rate for hours outside the periods in question for the workers concerned exceeds £2.50 per hour; and
- (iv) is calculated in accordance with paragraph 137.

### *Premium payments for night work*

135. Premium payments, additional to any premium payments for overtime, may be introduced or increased in accordance with paragraph 134 for any hours worked between 8 pm and 6 am on any day provided that the average hourly rate of premium payment (including the new or increased payments but excluding premium payments for overtime) does not exceed the equivalent of one-fifth of the appropriate basic time rates for hours outside such periods for the workers concerned.

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(a) 1972 c.53.

*Premium payments where standard hours include weekends*

136. Premium payments may be introduced or increased in accordance with paragraph 134 for any hours worked on Saturdays, Sundays or public holidays, or for any hours worked between 8 pm and 6 am on other days, provided that:—

- (i) the hours in question do not attract overtime payments at premium rates for the workers concerned;
- (ii) those concerned have standard working hours spread over a six or seven-day week; or work on shifts involving regular weekend rostering as part of their standard working hours (for this purpose, standard working hours are those recognised either by collective agreement, wages regulation order or custom and practice, as being those beyond which overtime payments at premium rates are payable); and
- (iii) the average hourly rate of premium payment, including the new or increased payments, in each of the periods mentioned above, does not exceed the equivalent of one-fifth of the appropriate basic time rates for hours outside such periods for the workers concerned.

*Calculation of average hourly rate of premium payment*

137. In calculating the average hourly rate of premium payment for the purposes of paragraphs 135 or 136:—

- (i) any overtime premia arising under paragraph 135 should be excluded;
- (ii) any shift, night work, weekend or public holiday, or similar premia payable in respect of the hours in question are to be included;
- (iii) any such premia payable partly in respect of the hours in question and partly in respect of other hours are to be averaged on an hourly basis over all the hours they cover;
- (iv) any such premia which have been consolidated into basic rates since 6 November 1972 are to be treated as if they had not been so consolidated.

**Individual Pay Limit**

138. Increases subject to the pay limit should not exceed £350 a year for any individual. If the individual works part time this limit should be reduced according to the proportion his hours bear to the standard hours of the group. The following do not count against the £350 individual pay limit:—

- (i) increases which do not count against the pay limit for the group; and
- (ii) increases under a settlement covered by paragraph 139 where the total cost of any increases in excess of the £350 individual limit does not exceed the 1 per cent. margin for the group concerned.

**Flexibility Margin**

139. Where the terms of a settlement include one or more of the features specified below, the pay limit applicable to the settlement may be increased by 1 per cent. of the average pay bill per head of the group covered by the



settlement for the preceding 12-month period as described in paragraph 123 (or by one seventh of £2.25 per week per head as the case may be) or by the cost of such features where this is less. Groups which are separate for the purposes of paragraph 118 may be combined for this purpose. The features are:—

- (i) changes in pay structures or grading structures or in systems of payment designed to remedy anomalies or secure specific improvements in efficiency;
- (ii) improvements in holidays which count against the pay limit where this would not increase the total holidays for the group concerned (subject to the same exclusions as in paragraph 147) to more than the equivalent of four weeks a year; the cost of such improvements to be calculated as in paragraph 148;
- (iii) the introduction or improvement of holiday pay;
- (iv) the introduction or improvement of sick pay schemes.

Such changes, improvements or introductions should not take a form which would lead to higher additional costs in succeeding years than can be met in the first year consistently with this Code.

140. The changes, improvements or introductions referred to in paragraph 139 may not be implemented with effect from an earlier date than the first principal increase after the coming into operation of this Code for any of those benefiting under the settlement unless they implement in whole or in part a settlement reached before 1 April 1973 and the cost of this implementation does not exceed the 1 per cent. margin.

### **Other Improvements in Pay and Conditions**

#### *Equal Pay*

141. Orderly progress towards achievement of the requirements of the Equal Pay Act 1970(a) may be made outside the pay limit on the basis set out in paragraphs 142 and 143.

142. Subject to paragraph 143 an increase for this purpose is outside the pay limit to the extent that by the end of 1974 it reduces by up to one-half:—

- (i) any differential between men's and women's rates at 31 December 1973 relating to work of the same or broadly similar nature which is required by the Equal Pay Act to be eliminated by 29 December 1975; or
- (ii) any differential between women's rates at 31 December 1973 and the pay for the grade in which they are placed by a job evaluation system in operation before 7 November 1973 or by job evaluation complying with the following criteria:—
  - (a) the method of job evaluation used and the rules of application are specified in writing and have been agreed in advance with the employees concerned or their representatives;
  - (b) the rules specify the form of job description to be used as the basis for evaluation; provide for the evaluation within an agreed specified period of all new jobs within the area covered by the scheme, and for the re-evaluation of changed jobs within a similar period; and provide for appeals by employees against values given to their jobs:

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(a) 1970 c.41.

- (c) the process of evaluation is distinct from the related process of determining pay.
- (iii) any differential between men's and women's rates at 31 December 1973 where these rates are specified in a collective agreement, an employer's pay structure, a wages regulation order or an agricultural wages order, and the discriminatory references are required by Sections 3, 4 or 5 of the Equal Pay Act to be removed by 29 December 1975.

143. No increase outside the pay limit is allowable under paragraph 142 if any other increase affecting the group concerned has the effect of widening in percentage terms the differentials to which paragraph 142 refers.

#### *Hours*

144. Reductions in standard working hours (as defined in paragraph 133) may be made outside the pay limit if they reduce standard working hours to not less than 40 hours a week, net of meal breaks. This does not apply where standard working hours have at any time been increased by agreement to more than 40 a week.

145. Reductions in standard working hours (as defined in paragraph 133) other than as provided for in paragraph 144 count against the pay limit. The true cost should be set against the pay limit but the cost should not be treated as less than proportional to the reduction (so that for example a reduction of one hour in 40 should be treated as equivalent to not less than a  $2\frac{1}{2}$  per cent. increase in pay) except where the Pay Board is satisfied in the light of the evidence that the true cost is less.

#### *Holidays*

146. The cost of an additional holiday on 1 January (or an alternative day in Scotland) does not count against the pay limit.

147. Other improvements in holidays do not count against the pay limit unless they increase the total holidays for any group to more than the equivalent of three weeks a year excluding:—

- (i) up to seven occasional or public holidays, including 1 January;
- (ii) rest days taken in lieu of weekends and overtime;
- (iii) rest days granted before 6 November 1972 in lieu of a shorter working week.

148. Improvements in holidays other than as provided for in paragraph 146 and 147 count against the pay limit. The true cost should be set against the pay limit but the cost should not be treated as less than proportional to the increase (so that for example an increase of one day per year should be treated as equivalent to not less than a 0.4 per cent. increase in pay) except where the Pay Board is satisfied in the light of the evidence that the true cost is less.

#### *Personal Increments*

149. Except as in paragraph 150, where personal increments:—
- (i) are part of a pre-determined range or scale; and

- (ii) conform to defined principles and practice which before 6 November 1972 governed the exercise of any management discretion in individual cases; and
- (iii) do not exceed those paid in similar circumstances in previous years by more than results directly from any improvement to the range or scale which has been made within the pay limit and counted against it,

any net addition to the annual pay bill per head for the group concerned will not count against the pay limit. Increments which satisfy these conditions do not count against the limit of £350 a year for the individual.

150. The following count against the pay limit and against the individual limit of £350:—

- (i) improvements in the ranges or scales in incremental systems covered by paragraph 149;
- (ii) any net addition to the annual pay bill of a group resulting from the payment of types of personal increment other than those in paragraph 149; and
- (iii) any element in personal increments which relates to factors not personal to the individual concerned, such as cost of living increases or company profits (other than under a profit-sharing scheme as it existed before 6 November 1972, which is subject to paragraph 159).

#### *Promotion and Regrading*

151. Increases commensurate with greater responsibility may be given outside the pay limit to individuals who are promoted or the level of whose work is reassessed by the application of procedures and criteria established before 6 November 1972. Where this test is not satisfied any increase in pay counts against the pay limit and against the individual limit of £350. Artificial regrading and changes of job specification should not be used as a means of avoiding the provisions of this Code.

#### *Recruitment and New Work*

152. New recruits to existing jobs should not be paid more than those they replace or more than is currently paid by the employer concerned for the same job.

153. The pay for new work should not be more than the current pay for the same or most nearly similar work by the same or other employers. Where pay varies in different localities, the pay for new work should not be more than the pay in the same locality.

154. Where before the statutory reorganisation of public services on 1 April 1974 (16 May 1975 for local government in Scotland) an individual temporarily undertakes work appertaining to the establishment and functions of a new authority or authorities which:—

- (i) is additional to and wider in scope than his continuing work with his current employer;
- (ii) involves additional hours (not subject to overtime payment) or additional responsibility; and,

(iii) continues for a period not less than three months, payments may be made outside the pay limit for such work after 6 November 1973 and during the period concerned provided that the payments do not exceed those allowable for new work in accordance with paragraph 153.

*Recognised Terms and Conditions*

155. The cost of increases to meet the purposes of section 8 of the Terms and Conditions of Employment Act 1959(a), the Road Haulage Wages Act 1938(b) and similar legislation, and the Fair Wages Resolution of 1946 will not count against the pay limit.

*Pensions*

156. New or improved benefits under occupational pension or death benefit schemes which are tax approved, or under comparable schemes not requiring tax approval, and any reimbursement of a corresponding increase in employee contributions may, unless paragraph 157 applies, be given outside the pay limit.

157. Where a change in a pension scheme has the effect of increasing the pay, net of any pension contribution of a substantial proportion of the group of employees covered by the scheme, that increase counts against the pay limit unless:—

- (i) a revaluation of the scheme, made in accordance with generally accepted principles for such revaluations, has shown a surplus in respect of those receiving the increase, the value of which equals or exceeds the increase; or
- (ii) there has been a corresponding reduction in benefits to those receiving the increase; or
- (iii) the change had been proposed before 6 November 1972.

*Redundancy Payments*

158. New or improved benefits under schemes which

- (i) provide payments to employees who leave an employer's service or are redeployed to a job with lower earnings because of redundancy in the circumstances described in (a) and (b) of section 1(2) of the Redundancy Payments Act 1965(c), and
- (ii) require a minimum of at least 52 weeks continuous service as a condition of such payments,

are outside the pay limit, as are benefits which become payable after six months of incapacity.

*Payments related to profits or turnover*

159. Increases in payments directly related to the profits or turnover of the enterprise in which the employees concerned are engaged will not count against the pay limit provided that:—

- (i) the payments are made in accordance with arrangements in operation before 6 November 1972,
- (ii) the arrangements specify in writing the formula by which the amount is calculated, or the payments do not exceed what was customarily paid in similar circumstances in previous years, and

(a) 1959 c.26.

(b) 1938 c.44.

(c) 1965 c.62.

- (iii) the payments to any one person in any 12 months do not exceed by more than £350 what would be due if profits or turnover were at the average level of the best two of the last five years of account of the enterprise ending not later than 30 April 1973.

Any other payment under such arrangements should be counted against the pay limit.

#### *Share Option and Share Incentive Schemes*

160. The provisions of this Code do not apply to the operation of a savings-related share option or share incentive scheme under the scope of Schedule 8 to the Finance Act 1973(a) and approved by the Inland Revenue to the extent that contributions under the scheme are paid by the beneficiary. If an employer pays contributions in whole or in part on behalf of an employee those payments count against the pay limit. In addition if the rate at which options or shares had been acquired by individual beneficiaries under a share option or share incentive scheme operating on or before 6 November 1972, was fixed or related directly, without managerial discretion, to quantified criteria by a pre-determined formula, that scheme may continue to operate outside the pay limit, on the terms ruling before that date, provided that the nominal value of the shares which are issued or for which options are granted to any beneficiary does not exceed the nominal value of those which were issued, or for which options were granted, to that beneficiary in the 12 months ending on 6 November 1973.

161. Except as in paragraph 160 no options may be granted under share option schemes or shares issued under share incentive schemes. The terms of schemes under which shares already issued are still subject to restrictions, or options already granted remain unexercised, may not be improved.

162. The acquisition of shares through any arrangements, not involving options, by which employers facilitate the purchase of shares by employees is outside the pay limit provided that:—

- (i) the shares are purchased at a price equal to their market value (the market value being assessed without regard to any restrictions attached to the shares, or to the employee's rights as a shareholder, which do not attach to all shares of the same class, or to the rights of all shareholders); and
- (ii) there are no related loans or deferred payment arrangements.

#### *Other Benefits*

163. The cost of any new benefits and of any improvement or extension of existing benefits or other terms and conditions of service will count against the pay limit unless otherwise exempted in this Code. These benefits include:—

Benefits in cash or kind, including the provision of cars partly or wholly for private use, living accommodation at less than economic cost, etc.  
Loans at below market rate, e.g. for house purchase  
Lunch or other meal vouchers  
Seasonal and holiday bonuses

Responsibility allowances  
Geographical allowances other than London allowances covered by paragraph 164  
Overtime and shift premia  
Stand-by payments  
Lay off and sick pay

164. Improvements to an allowance or differential rate of pay designed to compensate for the additional cost of accommodation and travel in London compared with the rest of the country may be increased outside the pay limit provided that the allowance or differential was being paid on or before 6 November 1972, on the basis of the formula given in Cmnd. 3436 (NBPI Report No. 44 of 1967) and that any increase is made on the same basis. Improvements to police pay differentials for London may be made outside the pay limit on the basis of the same formula.

165. Reimbursement to an employee of the following expenses does not count against the pay limit:—

- (i) expenses incurred in the performance of the duties on which he is employed;
- (ii) expenses incurred in a removal of his home which is necessary for the purpose of his transfer by his employer;
- (iii) the recurrent costs of providing himself with unfurnished living accommodation in a location subject to the direction or consent of the employer, where such reimbursement is made in accordance with procedures, criteria and standards under conditions of service established on or before 6 November 1972 and is in respect of a period since that date (but excluding conditions of service providing for direct reimbursement of interest charges).

When these expenses are reimbursed by fixed allowances these may be increased outside the pay limit, provided that the increase can be fully justified by reference to the relevant costs.

#### **Efficiency Payments Schemes (including Payment by Results and Restructuring Schemes)**

166. Except where specific provision is made in paragraphs 167 to 172 increases in pay under efficiency payments schemes (including payment by results and restructuring schemes) will count against the pay limit. In the case of payment by results schemes this applies to increased payments arising from changes in base rate, conversion rate or other calculator, piece-work prices or times, the fixed element or from any other changes in the terms.

#### *Existing Schemes*

167. Increases in pay under a scheme of payment by results, including piecework and commission payments, or under an arrangement linked to such a scheme will not count against the pay limit where they arise, under the terms of a scheme which was in operation before 6 November 1972 or brought into operation under the provisions of paragraph 170, from the

direct and measurable contributions by the employees to increased output. After 1 July 1974, this provision will apply only where the operation of the scheme is kept under review by the relevant control information specified in paragraph 171.

168. For those covered by schemes of payment by results, who do not benefit from a general pay increase, the 12-month period referred to in paragraph 118 will be the 12 months from 1 April in the relevant year.

169. For those covered by schemes of payment by results who also benefit from a general increase which counts against the pay limit, account must be taken in calculating the amount available for the general increase of any increase under the scheme which counts against the pay limit. For this purpose it must be assumed that increases in pay which count against the pay limit arising under the scheme during the 12 months following the general increase will be at least as great in percentage terms as in the preceding 12 months.

*Programmes agreed and partially implemented before 6 November 1972*

170. Where:—

- (i) there was on 6 November 1972, an agreement to implement a programme of productivity (including payment by results) schemes, or a restructuring, for specified groups of employees in which the amount of pay or the precise method by which it was to be calculated was clearly specified, leaving only the practical details of application of the scheme to particular groups to be settled; and
- (ii) the employer or group of employers covered by the agreement had on 6 November 1972, already implemented the programme in respect of some of the employees concerned,

implementation of the programme in respect of the specified groups may proceed. Resultant increases in pay will not count against the pay limit, provided those arising from payment by results schemes meet the requirement of paragraph 167.

*New Schemes*

171. Increases in pay resulting from efficiency payment schemes (including payment by results or restructuring schemes) will not count against the pay limit provided that the scheme meets the following requirements:—

- (i) the net savings arising from the scheme are
  - (a) sufficient to reduce unit total costs and unit labour costs below the level they would be but for the introduction of the scheme, and
  - (b) at least equal to the cost of the direct and consequential pay increases under the scheme;

For this purpose net savings mean savings after meeting all costs and charges incurred by the employer in installing and maintaining the scheme (including pay increases to all employees benefiting under the scheme, whether directly or consequentially and, where appropriate, an element for increased capital costs determined in

- accordance with generally accepted accounting principles consistently applied by him);
- (ii) the Pay Board is informed of the basis and provisions of the scheme before it is brought into operation;
  - (iii) no increase is payable before the net savings have been achieved at the required rate and in any case not until after the results of the first three months running of the scheme have been submitted to the Pay Board for checking and the Board's approval given for payment to be made with effect from the date of operation of the scheme;
  - (iv) the additional payments under the scheme do not exceed 50 per cent of the increase within the pay limit (excluding the flexibility margin) to those benefiting directly or consequentially under the scheme;
  - (v) the additional payments under the scheme are to be correspondingly reduced if standards or targets specified in the scheme are not met;
  - (vi) (a) in the case of a payment by results scheme, it is based on properly measured work standards, not merely on past performance, and includes provisions which:—
    - (i) take account of the improvement in performance which experience of doing a particular job brings; and
    - (ii) require standards to be regularly checked and revised when any relevant change occurs to ensure that consistency is maintained; and
    - (iii) directly relate changes in pay to the measured contributions by the employees to changes in output;(b) in the case of any other type of scheme, it is based on relevant indices of performance which:—
    - (i) are established through the application of either generally accepted methods of work measurement or, where these cannot be applied, other generally accepted methods of assessment; and
    - (ii) clearly indicate the contribution of employees to changes in levels of efficiency; and
    - (iii) measure the costs of the scheme and any financial gains attributable to the employees' contributions;
  - (vii) the operation of the scheme is kept under review through regular management control information. The control information must, as a minimum, clearly indicate changes in output per man hour (or in the performance indices in the case of schemes other than payment by results), related earnings, unit total costs and unit labour costs relative to a representative earlier reference period. In payment by results schemes output for payment purposes must be correctly recorded.

172. A scheme which satisfies the provisions of paragraph 171 may be brought into operation on any date after 31 December 1973 unless the date of the first principal increase for those benefiting directly from the scheme is after 1 July 1974 in which case it may be brought into operation only from the date of that principal increase. Where a scheme is brought into operation on a date other than that of a principal increase, the pay limit for the purposes



of paragraph 171(iv) is the pay limit applying to the first principal increase after 6 November 1973.

#### **Settlement reached before 6 November 1972**

173. Settlements reached, but not implemented, on or before 6 November 1972, which provide for specified increases on specified dates on or after 7 November 1973 (and not by reference to changes in indices or other rates of pay) may be implemented in full from their due date or dates. They will count against the pay limit unless they are increases of a kind which do not count against the pay limit under other paragraphs of this Code.

174. In the case of an increase under a settlement of the kind referred to in paragraph 173 the pay limit will apply to the 12 months following that increase, except where the increase falls within the period of a previous pay limit for the group and is counted against it. Where the total cost of the settlement within that 12 months equals or exceeds the pay limit it may not be added to, unless in ways which do not count against the pay limit.

#### **New Long-term Agreements**

175. Settlements may be made providing for staged increases at not less than 12-month intervals which are consistently with this Code but implementation of the later stages will be subject to the provisions of the Code at the time.

#### **Cost of Living Safeguard**

176. Payments under threshold arrangements may be made outside the pay limit and will not count against the individual pay limit provided that the following conditions are satisfied:—

- (i) the base figure for the purpose of the arrangement is the Retail Price Index (RPI) figure for October 1973 as published by the Department of Employment;
- (ii) the arrangement runs for not more than 12 months from the date of publication of the RPI figure for October 1973;
- (iii) payments are made with effect from the first full pay period after the date of publication of the RPI figure which is 7 per cent above the base figure for the purpose of the arrangement, and a pay increase of not more than 40p a week is given, with a further increase of not more than 40p a week for every subsequent full 1 per cent. rise in excess of 7 per cent. in the RPI during the currency of the arrangement;
- (iv) payments are treated as special supplements on an individual basis and are not included in the base rate for overtime or other premia;
- (v) each payment of up to 40p a week is paid in full only to full-time employees and part-time employees are paid pro rata.

#### **Anomalies**

177. Subject in all cases to approval by the Pay Board, increases may be given outside the pay limit as necessary in order to correct anomalies satisfying the relevant criteria set out in paragraphs 178, 180, 181 or 182. Such increases may be backdated to 7 November 1973 but not earlier.

178. In order to qualify as an anomaly on the basis of a link: —
- (i) the link must have been broken by the standstill; and
  - (ii) but for the standstill, the link must have determined the pay of the group concerned. In order to satisfy this condition:
    - (a) there must be evidence of that link and clear identification of the pay group being followed; and
    - (b) the effect of the link on the pay of the group concerned must have been known (even if not formally agreed) before 6 November 1972 or have been predictable within a narrow range;
- and where applicable:
- (c) where the link is not embodied in a formal agreement and there are separate negotiations, there must be evidence that all concerned intended that the outcome would be in accordance with (b).

These requirements apply to links both between groups and between grades within the same or different groups.

179. When a link which meets the conditions in paragraph 178 is restored with a group which had negotiated before the standstill a long-term settlement providing for one or more pay increases or improvements in conditions after the end of the standstill, the linked group may apply such increases or improvements: —

- (i) on 7 November 1973, where they were effective between the end of the standstill and 6 November 1973;
- (ii) on the operative date for applying the increase or improvement of the group being followed, where this is later than 6 November 1973.

180. In order to qualify as an anomaly on the basis of a formal procedure: —

- (i) the formal procedure must have been set aside by the standstill; and
- (ii) but for the standstill the formal procedure must have determined the pay of the group concerned. In order to satisfy this condition: —
  - (a) there must be a process agreed between the parties for determining the field of comparisons which cannot be changed during the course of a particular pay review; and
  - (b) there must be agreed rules governing the translation of external rates into agreed internal levels of pay such that it is possible to infer the outcome from the external evidence within a narrow range. The procedure must determine the actual levels of pay and not merely use outside evidence, for example published wages or earnings indices, to gauge the size of increases.

181. Where a group is covered by the same formal procedure as a group which qualifies as an anomaly under paragraph 180 and the procedure for the former group was in operation before the standstill, has a review date after the end of the standstill and includes within its current review a period

before the standstill, any increase for that group which may be due at the first review following the standstill may be paid in full on the first due date after 6 November 1973 in place of an increase under paragraph 118.

182. Where a new anomaly is created when a link or formal procedure is restored in accordance with the provisions of paragraphs 178, 180 or 181 above, the consequential anomaly may also be treated as an anomaly arising from the standstill provided that it meets conditions (ii) (a) to (c) of paragraph 178 above.

183. Increases designed to remedy an anomaly must:—

- (i) be limited to what the link or formal procedure would have given if the link or formal procedure had been allowed to operate at the first operative date after 6 November 1972;
- (ii) take full account of all relevant details of the settlement or procedure being followed and of benefits received by the linked group since 6 November 1972 in so far as these are relevant to the benefits accruing from the restoration of the link or formal procedure; and
- (iii) for those whose basic pay exceeds £5,000 per annum, be staged and paid in two equal amounts, subject to such modifications as the Pay Board may approve in order to prevent this provision creating serious anomalies in the pay structure of the group concerned. The first payment may be made with effect from a date not earlier than 7 November 1973, and the second not earlier than 12 months after the first payment.

184. For the purpose of calculating the pay limit for the next increase after the remedy of an anomaly, the calculations required by paragraph 118 may take account of increases in the pay bill expressed as an annual rate, resulting from the remedy of the anomaly.

185. In determining increases remedying anomalies negotiators should have regard to the objective, set out in paragraph 120, of improving the relative position of the low-paid and to the desirability, therefore, of not reversing any redistribution of income from higher paid to lower paid employees resulting from increases since 6 November 1972.

### **Part III—General**

186. Where the particular provisions of the Code cannot be directly applied to particular cases or sectors without modification, the Price Commission and the Pay Board will, in exercising their functions, apply those provisions with such adaptations or modifications as appear to them to be necessary to give effect to the principles and objectives of the Code.

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#### **EXPLANATORY NOTE**

*(This Note is not part of the Order.)*

This Order substitutes a new Price and Pay Code for the Price and Pay Code made on 1st April 1973. The substitution takes effect as respects prices and charges on 1st November, and as respects pay on 7th November 1973.

SI 1973/1785  
ISBN 0-11-031785-8

