

## 1976 No. 71

## COUNTER-INFLATION

**The Counter-Inflation (Price Code) (Amendment) Order 1976**

<i>Made - - - -</i>	<i>22nd January 1976</i>
<i>Laid before Parliament</i>	<i>22nd January 1976</i>
<i>Coming into Operation</i>	<i>1st February 1976</i>

The Secretary of State in exercise of the powers conferred by section 2 of the Counter-Inflation Act 1973(a) as amended (b), and of all other powers enabling her in that behalf, and having consulted the Price Commission 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 makes the following Order:—

1.—(1) This Order may be cited as the Counter-Inflation (Price Code) (Amendment) Order 1976 and shall come into operation on 1st February 1976.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

2. The Schedule to the Counter-Inflation (Price Code) Order 1974(d) as amended (e) shall have effect subject to the amendments specified in the Schedule to this Order.

3. The Counter-Inflation (Price Code) (Amendment) Order 1975(f) is hereby amended in the Schedule thereto by the deletion of paragraphs 2 and 3.

*Shirley Williams,*

Secretary of State for  
Prices and Consumer Protection.

22nd January 1976.

(a) 1973 c. 9.

(c) 1889 c. 63.

(e) S.I. 1974/2158, 1975/864, 1293 (1974 III, p. 8441; 1975 II, pp. 3072, 4400).

(f) S.I. 1975/864 (1975 II, p. 3072).

(b) See S.I. 1974/1218 (1974 II, p. 4631).

(d) S.I. 1974/2113 (1974 III, p. 8253).

(Article 2)

## SCHEDULE

### AMENDMENTS TO THE SCHEDULE TO THE COUNTER-INFLATION (PRICE CODE) ORDER 1974

#### 1. For paragraph 79 there shall be substituted—

##### *“Relief for investment*

79.—(1) Enterprises may increase net profit margin reference levels, the levels of gross percentage margins and prices, by reference to their estimated capital expenditure on investment physically located (or, in the case of road vehicles, based) in the United Kingdom, in accordance with the provisions of this paragraph.

##### (2) In this paragraph and in paragraph 80—

“expenditure on investment” means expenditure, approved in the case of a company by the board of directors, which it is estimated will actually become due and payable in the investment year (any estimate being revised from time to time on the basis of fact or of revised estimates, as circumstances may require) being—

- (a) capital expenditure on new and second-hand plant and machinery other than under agreements within (b) below;
- (b) payments—
  - (i) under leasing and hiring agreements for terms of not less than 2 years; and
  - (ii) under hire-purchase, credit sale and conditional sale agreements; relating to new and second-hand plant and machinery; and
- (c) capital expenditure on the construction of industrial buildings and of warehouses;

less the disposal value of any plant and machinery, industrial buildings and warehouses disposed of in the investment year:

##### Provided that—

- (i) expenditure relating to trading operations outside the control (except by virtue only of paragraph 5) shall be left out of account; and
- (ii) expenditure which cannot be appropriated to each activity within the meaning of paragraph 17 shall be apportioned in proportion to the turnover of all the activities concerned in the year of account ended not more than 12 months before the beginning of the investment year;

and in this definition, “plant and machinery” does not include mechanically propelled vehicles other than—

- (a) vehicles of a construction primarily suited for the conveyance of goods or burden of any description;
- (b) vehicles of a type not commonly used as private vehicles and unsuitable to be so used; and
- (c) vehicles provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade;

“the investment year” means a period of 12 months chosen by the enterprise beginning on or after 1st December 1974 and not later than the beginning of the relief year;

“the relief year” means a period of 12 months chosen by the enterprise—

- (a) in the case of an enterprise required to furnish periodical returns pursuant

to an order (a) under section 15 of the Counter-Inflation Act 1973, beginning not earlier than 56 days after the enterprise concerned has informed the Commission that it intends to apply this paragraph; and

(b) in the case of any other enterprise, beginning not earlier than 1st December 1974;

“relevant expenditure” means an amount (revised from time to time to take account of revision of expenditure on investment) being 20 per cent of expenditure on investment;

“turnover”, in relation to the relief year, means the turnover on trading operations within the control which may reasonably be expected to be achieved in the year in question, revised from time to time on the basis of fact or as circumstances may require.

(3) The permitted increases in net profit margin reference levels, the levels of gross percentage margins and prices shall be calculated in accordance with the following provisions of this paragraph. An enterprise—

(a) may, for the relief year, treat the net profit margin reference level as increased by the addition of a figure found by expressing the relevant expenditure as a percentage of turnover;

(b) in respect of its distribution activities, may, for the relief year, treat the level of the gross percentage margin from time to time ascertained under paragraph 86 as increased by the addition of a figure found by expressing the relevant expenditure as a percentage of turnover; and

(c) in respect of its manufacturing and service activities, may increase any price within control for a period of 12 months beginning in the relief year by an amount the additional yield from which, taken with the additional yield from all other such increases, will not exceed the relevant expenditure; and the total increase under this head in the price for any individual product shall not exceed a percentage equal to four times the percentage points by which the net profit margin reference level may be increased under head (a) above but, where an increase to be made in any price under this head is less than a whole number of pence, the increased price may be rounded up to the next halfpenny.

(4) If the application of sub-paragraph (3) has not caused the relevant expenditure to be recovered in sales, an enterprise for so long as may be necessary—

(a) may, in respect of its manufacturing and service activities, treat the reference level as increased by an amount sufficient to permit a price calculated under sub-paragraph (3)(c) to remain in force until the relevant expenditure has been recovered;

(b) may, in respect of its distribution activities, treat the reference level and the level of the gross percentage margin ascertained under paragraph 86 as increased by an amount sufficient to permit the recovery of any part of the relevant expenditure which has not been recovered:

Provided that where the amount of the relevant expenditure has been recovered (and any adjustments required under paragraph 80 to the amount actually recovered have had effect) net profit margin reference levels, gross percentage margins and prices may until 31st July 1976 continue at levels determined under sub-paragraph (3).

(5) Investment expenditure in respect of which the enterprise has benefited from a modification under paragraph 81 or any provision which it replaces may not be included in the calculation of relevant expenditure—

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(a) See S.I. 1974/2115 (1974 III, p. 8306).

(a) where the modification is to the provisions relating to profit margins, for the purposes of sub-paragraph (3)(a):

Provided that, for the purposes of sub-paragraph (3)(c), sub-paragraph (3)(a) shall have effect without adaptation; and

(b) where the modification is to the provisions relating to allowable cost increases or to increases in total costs, for the purposes of sub-paragraph (3)(b) and (c).

(6) Increases in prices under this paragraph and under this paragraph as applied by paragraph 79A must be disregarded in determining increases in any price under any other provisions of this Code.”

2. After paragraph 79 as substituted by paragraph 1 above there shall be inserted the following paragraph—

*“Further relief for investment*

79A.—(1) An enterprise which has obtained relief under paragraph 79 may obtain further relief under that paragraph as applied by this paragraph; and for that purpose the provisions of paragraph 79 shall have effect accordingly and subject to the following provisions of this paragraph.

(2) For the purposes of this paragraph, the definitions of “the investment year” and “the relief year” in sub-paragraph (2) of paragraph 79 shall not have effect and “the investment year” and “the relief year” shall mean respectively a period of 12 months beginning immediately after the end of the investment year or of the relief year, as the case may be, by reference to which relief under paragraph 79 was calculated.

(3) In the case of an enterprise required to furnish periodical returns pursuant to an order(a) under section 15 of the Counter-Inflation Act 1973(b), no relief shall be taken under this paragraph earlier than 28 days after the enterprise concerned has informed the Commission that it intends to apply this paragraph.

(4) Where relief is obtained under this paragraph, the proviso to paragraph 79(4) shall cease to have effect.

(5) References to paragraph 79 in any provisions of the Code, other than paragraph 79 and the foregoing provisions of this paragraph, include references to paragraph 79 as applied by this paragraph.”

3. After paragraph 136 there shall be inserted the following paragraphs—

*“Special provisions facilitating selective price restraint*

*Restricted price products*

137.—(1) If the Secretary of State is satisfied that a substantial number of enterprises, which sell products or provide services of a description appearing to the Secretary of State to be of special importance in family expenditure, are able to restrain prices for those products and services in accordance with the policy set out in the document “The Attack on Inflation” laid before Parliament by command of Her Majesty in July 1975 (Cmnd. 6151), the Secretary of State may so certify in relation to any description of such products and services (“restricted price product”).

(2) Paragraphs 138 to 141 shall have effect for facilitating price restraint in relation to restricted price products and apply to all manufacturing and service enterprises and to all distributors but not to the nationalised industries listed in paragraph 97 of the Code.

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(a) See S.I. 1974/2115 (1974 III, p. 8306). (b) 1973 c. 9.

*Transfer of revenue from restricted price products*

138.—(1) Where an enterprise—

- (a) may, under the Code, implement an increase in the price of a restricted price product, and
- (b) does not at any time implement any increase, including an increase under paragraph 79 (relief for investment), which would bring the price of that product to a level which is more than 5 per cent above the base price together with such amount (if any) as will bring the price up to the next whole multiple of the unit of currency in which it is the established practice of the enterprise to express prices for products of the same description,

the enterprise may, in accordance with this paragraph, implement an increase in the price of one or more transferred revenue products chosen by the enterprise, whether sold in the course of an activity within the same unit for profit margin control or another.

(2) Under this paragraph, an enterprise—

- (a) may increase the price of any transferred revenue product by an amount the yield of which over a period of 6 months will, taken with the corresponding yield of all other such increases in respect of the same transferable revenue, result in the receipt of an increase in revenue of not more than the amount of the transferable revenue; and
- (b) may, in respect of its distribution activities, treat the level of the gross percentage margin as increased by an amount sufficient to permit the receipt in revenue over 6 months of the amount of any transferable revenue relating to restricted price products sold in the course of its manufacturing and service activities and not transferred under this paragraph to transferred revenue products sold in the course of those activities.

(3) The Commission shall under this paragraph permit an enterprise to implement different price increases in different parts of the United Kingdom where they are satisfied that differentials in price between different parts of the United Kingdom are in accord with the established practice of the enterprise.

(4) An increase in price under this paragraph may be made notwithstanding anything in the foregoing provisions of the Code including, in particular, paragraph 18 (which provides for the limitation of price increases by reference to increases in total costs per unit of output) and paragraph 29 (which limits the frequency of price increases).

*Savings for provisions relating to net profit margins and gross percentage margins*

139. For the purposes of paragraphs 37 to 40, 60, 77, 78, 88 and 93 (safeguards), and 66 and 94 (which specify action to be taken where margins likely to be exceeded)—

- (a) in the case of any enterprise, the level of the net profit margin, and
- (b) in the case of a distributor, the level of the gross percentage margin,

shall be taken to be what it would have been if no adjustment in prices, whether of restricted price products or of transferred revenue products, had been made under paragraph 138.

*Prices of products adjusted under paragraph 138*

140. Adjustments in prices, whether of restricted price products or of transferred revenue products, under paragraph 138 must be disregarded in determining permitted prices under other provisions of the Code.

*Interpretation of paragraphs 137 to 141*

141. For the purposes of paragraphs 137 to 140 and of this paragraph—

(a) “base price”, in relation to a restricted price product, means the price charged by an enterprise for comparable transactions immediately before 1st February 1976 (or, in the case of a service, 14th February 1976) or—

(i) in the case of a restricted price product in relation to which there is no such comparable transaction or of a restricted price product which is not on sale immediately before 1st February 1976 because of seasonal factors (not being, in either case, a product within (ii) below), the first price charged after 31st January 1976 (or, in the case of a service, 13th February 1976); or

(ii) in the case of a restricted price product which was sold by the enterprise only at a special offer price immediately before 1st February 1976 (or, in the case of a service, 14th February 1976), the price at which the enterprise last sold the product before the beginning of the period of the special offer;

and includes any excise duty charged, or which may be charged, on the product;

(b) “special offer price”, in relation to a restricted price product, means the price—

(i) at which an enterprise sells the product during a continuous period, including 31st January 1976 (or, in the case of a service, 14th February 1976) and of not more than 6 months, and

(ii) which is lower than the price at which it last sold such products before it began selling them at the price first mentioned in this sub-paragraph;

(c) “restricted price product” means a product or service specified in a certificate under paragraph 137(1);

(d) “transferable revenue” in relation to a restricted price product, means the yield over a period (being a period of 6 months, beginning not earlier than 1st February 1976, chosen by the enterprise or, in a case where the price of the product is to be increased, beginning when the increase is implemented) from sales of the product at a price permitted under the Code (apart from paragraph 138) after deduction of the yield over that period from sales of the product at its price at the beginning of that period, including any increase then implemented; and

(e) “transferred revenue product” means any product or service (including a restricted price product).”

## EXPLANATORY NOTE

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

This Order further amends the Price Code contained in the Schedule to the Counter-Inflation (Price Code) Order 1974.

First, in a new paragraph 79A, it extends the provision for relief for expenditure on investment provided by paragraph 79. The new paragraph permits companies to apply a second year's entitlement to investment relief on the same basis as provided in paragraph 79. Paragraph 79 itself is also included in a form which consolidates earlier amendments with, in sub-paragraph (4), an amendment permitting companies which do not invoke the new paragraph 79A to maintain prices and profit margins established under the existing relief until 31st July 1976, and, in sub-paragraph (6), a technical amendment consequential upon the introduction of paragraph 79A.

Second, in furtherance of the policy contained in the White Paper *The Attack on Inflation* (Cmnd. 6151), the Order introduces, as paragraphs 137 to 141, provisions to facilitate selective price restraint by permitting the recovery of revenue, which may be forgone by restraint in the prices of certain products, by increasing the prices of other products.

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